

No. 15047

---

United States  
Court of Appeals  
for the Ninth Circuit

---

NATIONAL LABOR RELATIONS BOARD,  
Petitioner,  
vs.  
MONROE FEED STORE, Respondent.

---

Transcript of Record

---

Petition for Enforcement and Petition for Review of Order of the  
National Labor Relations Board

FILED

JUN 28 1956

PAUL P. O'BRIEN, CLERK



No. 15047

---

United States  
Court of Appeals  
for the Ninth Circuit

---

NATIONAL LABOR RELATIONS BOARD,  
Petitioner,  
vs.  
MONROE FEED STORE, Respondent.

---

Transcript of Record

---

Petition for Enforcement and Petition for Review of Order of the  
National Labor Relations Board

---

1854

1855

1856



## INDEX

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

	PAGE
Answer to Complaint (G.C. 1-F).....	6
Answer to Petition for Enforcement.....	49
Certificate of the National Labor Relations Board .....	41
Complaint (G.C. 1-D).....	1
Decision and Order.....	35
Exceptions to Intermediate Report and Recom- mended Order .....	30
Intermediate Report and Recommended Order	9
Conclusions of Law.....	25
Findings of Fact.....	10
Recommendations .....	26
Petition for Enforcement of an Order of the National Labor Relations Board.....	44
Petition for Representation (G.C. 2).....	7
Petition for Review of Final Orders of the Na- tional Labor Relations Board.....	46

Statement of Points Relied Upon:

Monroe Feed Store.....	52
National Labor Relations Board.....	52
Transcript of Proceedings and Testimony.....	54
Exhibits for General Counsel:	
1-D—Complaint .....	1
1-F—Answer to Complaint.....	6
2—Petition for Representation.....	7

Exhibits for Respondent:

1—Statement, Monroe Feed Store.....	186
2—(Rejected) Affidavit of David O. Crock- ett .....	199
3—Copy of Letter dated December 7, 1953, Masters & Masters to Paul T. Bailey	221
4—Copy of Letter dated February 10, 1954, Masters & Masters to Paul T. Bailey	222
5—Copy of Letter dated February 15, 1954, Masters & Masters to Paul T. Bailey	223
6—Copy of Letter dated February 18, 1954, Masters & Masters to Paul T. Bailey	224

Witnesses:

Cantrell, Floyd, Jr.	
—direct .....	166

iii.

Transcript of Proceedings—(Continued)

Witnesses—(Continued)

Cantrell, Floyd, Sr.

—direct .....	164
—redirect .....	166

Conn, Ellis

—direct .....	179
---------------	-----

Cook, Tom

—direct .....	176
—cross .....	178

Giesy, Wayne R.

—direct .....	57
—cross .....	122
—recalled, direct .....	202
—redirect .....	218
—recross .....	219

Harrington, Don

—direct .....	161
---------------	-----

Harrington, Frank

—direct .....	153
---------------	-----

Howe, Jess A.

—direct .....	172
---------------	-----

Johnson, Alec

—direct .....	150
---------------	-----

Jones, Ralph H.

—direct .....	174
---------------	-----

## Transcript of Proceedings—(Continued)

## Witnesses—(Continued)

## Joyner, Ray

—direct .....	167
—cross .....	169
—redirect .....	169
—recross .....	170

## Loomis, Robert E.

—direct .....	183
—cross .....	187

## Mumford, Kenneth Melvin

—direct .....	136
—cross .....	140
—recross .....	145

## Sams, Webster

—direct .....	145
---------------	-----

## Shaffer, Claude

—direct .....	128
—direct .....	131

## Stevens, Austin Lee

—direct .....	131
—cross .....	135
—recalled, direct .....	180

## Urbach, June L.

—direct .....	193
—redirect .....	195

# GENERAL COUNSEL'S EXHIBIT 1-D

United States of America

Before the National Labor Relations Board  
Nineteenth Region

Case No. 36-CA-434

MONROE FEED STORE

and

AMERICAN FEDERATION OF GRAIN MILLERS,  
LOCAL 61, AFL

## COMPLAINT

It having been charged by American Federation of Grain Millers, Local 61, affiliated with American Federation of Grain Millers, AFL, that Monroe Feed Store, herein called Respondent, has engaged in, and is now engaging in, certain unfair labor practices affecting commerce as set forth in the Labor Management Relations Act of 1947, 61 Stat. 136, herein called the Act, the General Counsel of the National Labor Relations Board, on behalf of the Board, by the Regional Director of the Nineteenth Region, designated by the Board's Rules and Regulations, Series 6, as amended, Section 102.15, hereby issues this Complaint and alleges as follows:

### I.

Respondent is now, and has been at all times material herein, a corporation duly organized and

existing under and by virtue of the laws of the state of Oregon, and is now, and has been at all times material herein, continuously engaged in the buying and selling of seed, feed and grain, also the manufacture of poultry and dairy feed in its operations located in Monroe, Oregon, and Corvallis, Oregon, hereinafter referred to as the Oregon operations.

## II.

Respondent, in the course and conduct of its business enterprises at its Oregon operations, causes, and has continuously caused, a substantial amount of seed, feed and grain to be purchased and sold, transported and delivered to companies in the state of Oregon, which companies are engaged in interstate commerce.

Respondent sold seed during the past fiscal year valued in excess of \$150,000 to E. F. Burlingham and Sons, a company engaged in interstate commerce. The seed which was sold by Respondent to E. F. Burlingham and Sons was shipped from Respondent's Oregon operations.

## III.

Respondent is now, and at all times material herein has been, an employer within the meaning of Section 2, subsection (2) of the Act.

## IV.

Respondent is now, and at all times material herein has been, engaged in commerce within the meaning of the Act.

## V.

American Federation of Grain Millers, Local 61, affiliated with American Federation of Grain Millers, AFL, hereinafter referred to as the Union, is now, and at all times hereinafter mentioned has been, a labor organization within the meaning of Section 2, subsection (5) of the Act.

## VI.

At all times material hereto a unit appropriate for the purpose of collective bargaining within the meaning of Section 9 (b) of the Act has been, and is now, as follows:

“All employees employed by Monroe Feed Store exclusive of office and clerical employees as defined by the Act.”

## VII.

The Union is now, and since October 27, 1953, has been, the exclusive collective bargaining representative of a majority of Respondent's employees in the unit described in paragraph VI above, and by virtue of Section 9 (a) of the Act has been, and now is, the exclusive representative of all of the employees of Respondent in said unit for the purpose of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

## VIII.

Respondent, by its officers, agents, and supervisors, while engaged in the operations described above in paragraphs I, II, III, and IV has, since



on or about October 30, 1953, and continuously down to and including the date of the issuance of this Complaint, interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act by:

(a) Urging, persuading, and warning its employees by threats of reprisal or force, or promise of benefits to refrain from assisting, becoming or remaining members of the Union, or engaging or continuing to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection; and

(b) By act of a mass termination of its production and maintenance employees, which mass termination took place on October 30, 1953.

## IX.

On or about November 2, 1953, and at all times since, while the Respondent was engaged in the operations described in paragraphs I, II, III and IV above, the Respondent refused to bargain with the Union and did deal directly with individual employees on subjects of rates of pay, wages, hours of employment, and other conditions of employment. The demands to bargain were made by the Union to Respondent specifically as follows:

Verbally, to the Respondent's Manager on November 2, 1953, at the Respondent's Office.

By telephone to Respondent's Attorney on November 19, 1953.

By letter to Respondent's Attorney dated November 20, 1953.



The refusal to bargain has continued down through and including the date of the issuance of this Complaint.

### X.

Respondent, by all the acts and conducts described in paragraphs VIII and IX above, did interfere with, restrain and coerce its employees and is interfering with, restraining and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, thereby engaging in unfair labor practices within the meaning of Section 8, subsection (a) (1) of the Act.

### XI.

By refusing to bargain with the Union and by dealing directly with those individual employees on subjects of rates of pay, wages, hours of employment, and other conditions of employment as set forth in paragraph IX above, the Respondent has engaged in and is now engaging in unfair labor practices within the meaning of Section 8, subsection (a) (5) of the Act.

### XII.

The activities of Respondent as set forth and described in paragraphs VIII and IX above, occurring in connection with the operations of Respondent as described in paragraphs I, II, III and IV above, have a close, intimate and substantial relation to trade, traffic, and commerce among the several states of the United States and tend to lead

to labor disputes burdening and obstructing commerce and the free flow of commerce.

### XIII.

The aforesaid acts of the Respondent, as set forth and described in paragraphs VIII and IX above, constitute unfair labor practices affecting commerce within the meaning of Section 8, subsections (a) (1) and (5) of the Act, and Section 2, subsections (6) and (7) of the Act.

Wherefore, the General Counsel of the National Labor Relations Board on behalf of the Board, on this first day of February 1954, issues this Complaint against Monroe Feed Store, the Respondent herein.

[Seal]            /s/ THOMAS P. GRAHAM, JR.  
Regional Director National Labor Relations Board,  
Region 19.

Affidavit of Service by Mail and Postal Return  
Receipts Attached.

---

### GENERAL COUNSEL'S EXHIBIT 1-F

[Title of Board and Cause.]

### ANSWER

By answer to the complaint filed in the above entitled case, Monroe Feed Store alleges as follows:

#### I.

Denies each and every allegation contained in

paragraphs I, II, III, IV, V, VI, VII, VIII, IX, X, XI, XII, and XIII thereof and the whole thereof.

Wherefore, Monroe Feed Store prays that the complaint issued herein be dismissed.

MASTERS & MASTERS

/s/ W. MASTERS

of Attorneys for Monroe Feed Store

Duly Verified.

---

GENERAL COUNSEL'S EXHIBIT No. 2

United States of America

National Labor Relations Board

PETITION

When this Petition is filed by a labor organization or by an individual or group acting in its behalf, the Petition will not be processed unless the labor organization and any national or international of which it is an affiliate or constituent unit have complied with section 9 (f), (g), and (h) of the National Labor Relations Act.

\* \* \* \* \*

The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority:

1. Purpose of this Petition (Check only the one box which is appropriate)

\* \* \* \* \*

B. [ x ] RM—Representation (Employer.—One or more individuals or labor organizations have presented a claim to Petitioner to be recognized as the representative of employees of Petitioner as defined in section 9 (a) of the act.

\* \* \* \* \*

2. Name of Employer: Monroe Feed Store.

Employer Representative to Contact: W. J. Masters. Phone No. At. 6381.

3. Address of Establishment: Monroe, Oregon.

4a. Type of Establishment: Feed and Seed Processor.

4b. Identify Principal Product or Service: Feed, Seed, Grain.

5. Description of Unit Involved: Included: All regular production, maintenance, warehouse and clerical employees. Excluded: Managerial employees.

6a. Number of Employees in Unit: 13.

\* \* \* \* \*

7a. Request for recognition as Bargaining Representative was made on November 19, 20, Dec. 9, 1953, Feb. 9, 1954, and Employer declined recognition on or about Dec. 7, 1953, Feb. 10, 18, 1954.

\* \* \* \* \*

8. Recognized or Certified Bargaining Agent: None.

9. Date of Expiration of Current Contract, if any: None.

\* \* \* \* \*

11. Parties or Organizations Other Than Petitioner Which Have Claimed Recognition as Repre-

sentatives, and Other Unions Interested in the Employees Described in Item 5 above: Local 61, American Fed. of Grain Millers, AF of L, 310 SW Columbia, Portland, Oregon. Date of Claim: Nov. 19, 20, Dec. 9, 1953, Feb. 9, 1954.

\* \* \* \* \*

I declare that I have read the above petition and that the statements therein are true to the best of my knowledge and belief.

MONROE FEED STORE,

/s/ By W. R. GIESY, Manager.

Address: Monroe, Ore. Telephone: Corvallis 33415.

---

[Title of Board and Cause.]

INTERMEDIATE REPORT AND  
RECOMMENDED ORDER

Howard A. McIntyre, Esq., for the General Counsel. Paul T. Bailey, Esq., of Portland, Ore., for the Union. Masters & Masters, by William J. Masters, Esq., of Portland, Ore., for the Respondent.

Before: Wallace E. Royster, Trial Examiner.

Statement of the Case

Upon a charge duly filed by American Federation of Grain Millers, Local 61, AFL, herein called the Union, alleging that Monroe Feed Store, herein called the Respondent, has committed violations of the National Labor Relations Act, 61 Stat. 136, herein called the Act, the General Counsel of the



National Labor Relations Board issued a complaint dated February 1, 1954, against the Respondent.

In respect to unfair labor practices the complaint alleges that the Respondent has since November 2, 1953, refused, unlawfully, to bargain with the Union, the majority representative of Respondent's employees in an appropriate unit, and since October 30, 1953, has interfered with, restrained, and coerced its employees in the exercise of rights guaranteed in Section 7 of the Act by threats of reprisal or promise of benefits, and by terminating the employment of nearly all workers.

Respondent's answer denies the allegations of the complaint.

Pursuant to notice the hearing was held before the undersigned in Corvallis, Oregon, on March 9 and 10, 1954. All parties were represented by counsel and were permitted to examine and cross-examine witnesses and to introduce evidence pertinent to the issues. Following the close of the hearing briefs have been submitted by counsel for the Union and counsel for the Respondent.

Upon the entire record in the case and from my observation of the witnesses, I make the following:

#### Findings of Fact

Monroe Feed Store is a corporation engaged at Monroe and Corvallis in the State of Oregon in buying, processing, and selling feed, grains, fertilizer, and seed. During the 12-month period preceding the hearing, Respondent purchased raw

materials having a value of approximately \$1,000,000. During the same period sales of grains, peas, seed, and feed, and fertilizer exceeded \$1,000,000 in value. Seed accounts for about 15 percent of the dollar volume of sales, and about 90 percent of the seed processed is sold to, and shipped for the account of, E. F. Burlingham & Sons to various points in the United States. About 41 percent of such sales is represented by shipments directly to points outside the State of Oregon. During the past 12 months the value of such shipments to points outside the State of Oregon was between \$55,000 and \$83,000. During the same period Respondent's purchases of fertilizer amounted to approximately \$100,000, all of which originated outside the State of Oregon. The Respondent also makes sales to Kerr Gifford Company and Archer-Daniels Midland Company, both of whom maintain offices in Portland, Oregon, and who resell the same commodities in Oregon as well as in other States.

## II. The labor organization involved

American Federation of Grain Millers, Local 61, AFL, is a labor organization admitting to membership employees of the Respondent.

## III. The unfair labor practices

Wayne Giesy, one of Respondent's stockholders and directors as well as the manager of its operations in Monroe and Corvallis, has his office in Monroe but throughout the period of interest here

frequently visited for managerial purposes the operation in Corvallis. During 1953 David Crockett was Respondent's assistant manager in charge of the Corvallis operation. On October 28, 1953, Crockett told Giesy, the latter testified, that he had been informed of a union meeting of Respondent's employees at the home of one of them, Webster Sams. Crockett went on to say, according to Giesy, that he had questioned Sams about the matter and had been assured that the meeting did not concern a union. According to Giesy he then dismissed the matter from his mind, assuming and believing that the meeting was no more than a social gathering. At the close of business on October 30 Giesy discharged all of the employees at Monroe except for his father and the bookkeeper. Crockett under Giesy's direction did the same at Corvallis. Giesy told the employees at the time of their dismissal that the action was necessitated by operating losses.

There had been a meeting of employees at the home of Sams on the evening of October 27 and it did concern the Union. At that meeting or the next day 12 of the 13 workers in the two operations signed designations authorizing the Union to represent them. Frank Harrington, one of the employees, testified credibly and without contradiction that on October 30 he told Respondent's foreman at Monroe, Claude Turner, that all the employees had signed union cards. Early in the afternoon of October 30, according to another employee, Kenneth Mumford, Giesy asked who was at the October 27 meeting. Mumford answered that he was and that all



had signed Union cards. Giesy then asked, "Is that what the men want?" Mumford replied, "I guess so" and the conversation ended. On November 2 A. L. Stevens and Claude Shaffer called upon Giesy, represented that they were authorized by a majority of Respondent's employees to negotiate a contract, and requested a meeting for that purpose. Giesy said that he had no employees and that therefore there was "no problem." Also, on November 2 Tom Cook, who had been discharged on the previous Friday and who had on October 27 signed a union designation card, was rehired by Giesy. According to Cook's undenied and credited testimony, Giesy asked on November 2 what Cook thought about the Union. Cook answered that he "didn't think too much about it right at the time." Cook has remained in Respondent's employ. On various dates thereafter up to the time of the hearing, of those who were discharged on October 30, Jess Howe and Ralph Jones were rehired at Corvallis and Floyd Cantrell, Jr., Ellis Conn, Frank and Don Harrington at Monroe. Conn and the two Harringtons were later discharged in circumstances which the General Counsel does not allege to have been discriminatory.<sup>1</sup> Sometime in early March 1954 Claude Turner, Respondent's foreman at Monroe, whose employment had not been interrupted by the discharges, was demoted and sent to Corvallis as an ordinary workman. The Respondent appears now

---

<sup>1</sup> I have not therefore discussed in this report the validity of the reasons advanced for discharges occurring after October 30, 1953.

to have the same number of employees as on October 30.

In early March the Respondent filed a petition with the Board seeking an election to determine the bargaining representative of its employees. The unit described in the petition is "All regular production, maintenance, warehouse, and clerical employees, excluding managerial employees." This is in substance the same unit set forth in the complaint as appropriate. It appears to be comprised of mill workers whose working conditions and interests are similar and considering further the substantial agreement of the parties, I find that a unit composed of all employees employed by the Respondent exclusive of office, clerical, and supervisory employees as defined in the Act now constitutes and at all times material herein has constituted a unit appropriate for the purpose of collective bargaining within the meaning of Section 9 (b) of the Act.

On October 30, 1953, as evidenced by the testimony of the individual employees, 12 of the 13 in the appropriate unit had then designated the Union as their bargaining representative. I find, therefore, that on October 30, 1953, and at all times material since the Union has been and is the exclusive collective bargaining representative of a majority of Respondent's employees in the appropriate unit within the meaning of Section 9 (a) of the Act.

It is the theory of the General Counsel that Giesy, learning that his employees had had a meet-

ing for the purpose of organizing themselves into a union, decided to move quickly to terminate the progress of that development and because of the threat of organization terminated all of his mill workers on October 30. The Respondent insists that no such motification came into play; that the Respondent on October 30 did not entertain a belief that its employees were members of a union or about to become so; and that the discharges resulted solely and exclusively from the asserted fact that continued operation under the then conditions was causing intolerable losses.

To support this theory the General Counsel offered first the testimony of Giesy that he had never favored unions and preferred not to have one in his plant and that Foreman Rudisell and Assistant Manager Crockett at Corvallis were aware of his disposition in that connection. Employee Alec Johnson testified credibly and without contradiction that about mid-September 1953, while discussing unions with Foreman Turner the latter said that if Giesy discovered that the employees had joined a union he would fire every one of them. Employee Frank Harrington testified credibly and without contradiction that on October 30 Foreman Turner told Harrington of overhearing a conversation between Crockett and Giesy to the effect that someone was trying to get a union in the mill. When Harrington asked Turner what he supposed would happen Turner answered, "Well Wayne will just find out who started it and he'll fire him. That's what happened the other time." Frank Harrington

and Don Harrington testified that in February 1954 during the course of a somewhat heated discussion with Giesy the latter said "Before I go union, I'll shoot myself between the eyes."

Turner was not called as a witness although still in Respondent's employ at the time of the hearing. Giesy denied that there was ever an occasion when he discharged anyone for starting a union and disputed the testimony of the Harringtons that he had ever threatened to shoot himself in the event of union organization. What emerges from this testimony however on the point of Giesy's reaction to a threat of organization is that he viewed such a possibility with displeasure. Of course no employer is required to put out the welcome mat for a union and in certain situations is required by the Act to refrain from encouraging his employees in this connection. The testimony as to Giesy's feeling in the matter was received only for the purpose of illuminating the motivation attending the discharges of October 30.

Although the Respondent's volume of business in the past 2 years has been substantial, its profits have been little more than nominal. According to Giesy's credited testimony, at the end of the fiscal year May 31, 1953, a decision was reached to take periodic inventories throughout the ensuing year to determine the Respondent's profit and loss position so that necessary changes in operations could be made quickly. Because of the busy summer season the first inventory was taken at the close of business on September 30 and the result sent to an auditor in the nearby town of Forest Grove. There



followed, according to Giesy, a number of telephone calls from Robert Loomis, the auditor or accountant, advising Giesy piecemeal of Respondent's financial and economic position as revealed by the inventory. Loomis testified that he last spoke to Giesy in the matter 10 days or 2 weeks prior to October 30. On October 30, according to Giesy, he received from the accountant a profit and loss statement indicating a loss from June 1 through September 30 of approximately \$30,000. On the same day, still according to Giesy, in a telephone conversation with someone connected with E. F. Burlingham & Sons, a corporation controlling a substantial stockholding in the Respondent, he was told that some decisive action to avoid the continuation of this unprofitable operation must be taken. The means of accomplishing the curtailment of the loss was left to Giesy's discretion. Giesy could not recall in his testimony the identity of the person giving this instruction. Giesy testified in effect that he knew he must act and act quickly but, being unsure just what steps would provide a solution for the problem, decided to discharge all his employees and to spend the week end in a study of the operations to determine finally what must be done. Due only to the revelations in the profit and loss statement which Giesy insisted he saw for the first time on October 30, did the discharges result. By November 2, still according to Giesy, he had decided to operate a feed mixer and hired Cook for that purpose. Thereafter he hired employees to operate trucks and for general mill work. Since October 30, according to

Giesy, the emphasis in the operations has shifted to grain and feed and away from seeds. During the course of restaffing the operations with old employees and new, wages were raised from the pre-existing rate of \$1.20 per hours to \$1.50, but the general practice of all employees working from 50 to 60 hours a week was discontinued. Truck drivers still work the longer hours but with the new pay rate are not paid premium overtime for hours over 40.

Giesy denied that Mumford made mention of a union on October 30 testifying that Mumford merely said, unsolicited, that some of the employees had met at the home of one of them. The bookkeeper, June Urbach, testified to the same effect.

In December, Ray Joyner spoke to Giesy about returning to work and in the discussion which followed became sufficiently angry to invite Giesy to fight him. Because of the nature of this altercation, Giesy testified, he does not consider Joyner to be re-employable. According to Giesy the business now being carried on cannot profitably use the services of Floyd Cantrell, Sr., although Cantrell before October 30 had worked about 8 years for the Respondent. Giesy characterized the work of Sams as unsatisfactory although Respondent's evidence is that Sams was never seriously criticized for any shortcoming before his discharge and was terminated on October 30 for economic reasons along with the others.

Principally because, based upon observation among other criteria, I do not regard Giesy as a

credible witness and therefore do not accept his explanation that the terminations on October 30 were necessitated and sprang from economic considerations, I am persuaded that the evidence<sup>2</sup> of the General Counsel tending to show that fear of union organization dictated Respondent's action at that time, establishes the discharges then occurring as discriminatory. I do not credit Giesy's testimony that he first saw the profit and loss statement on October 30. The statement in evidence is a simple one and the only information on it which is significant in respect to the discharges is the showing of a substantial loss. Giesy testified that on a number of occasions during the month of October after the submission of the inventory data to the auditor, he was informed by the latter of developments in the preparation of the profit and loss statement tending to indicate that the operation to the end of

---

<sup>2</sup> Witnesses for the General Counsel, I am convinced are entitled to credit. No factor other than the testimony of Giesy tends to cast doubt upon the accuracy of their testimony. I consider it significant that Foreman Turner was not called to the stand to testify concerning statements attributed to him and conclude that he would not have entered a denial. Although by no means dispositive of the question of credibility of Sams and others who were employed at Corvallis, were any of them disposed to color or contrive evidence an opportunity existed after the death of Crockett. However the only incident involving Crockett which tends to support the allegations of the complaint came in first in the testimony of Giesy when he related that Crockett had questioned an employee (Sams) about the meeting of October 27.

September was unprofitable. No such conclusion could have been reached as I read the statement until all of the factors affecting the profitability of Respondent's business had been calculated and appraised in relation to each other. Any information coming to Giesy from the auditor in respect to any single item on the profit and loss statement would seem to be without particular meaning until related to the complete information as to receipts, disbursements, and inventory. My conclusion is that Giesy knew of the profit situation some time before October 30. I do not credit Giesy's uncorroborated testimony that someone in authority over him directed that some drastic action be taken on October 30. It is suggested in the record, although not specifically argued, that because Respondent's business is to some extent seasonal in nature terminations and layoffs are to be expected in the fall of the year. This appears to be true, but by October 30 the Respondent had trimmed its crew of temporary workers and apparently had work for all those who remained. Alec Johnson, who was hired in July or August of 1953, testified credibly and without contradiction that in late October his foreman, Claude Turner, said that he would be kept on to work as a permanent employee. Jess Howe, who was hired at about the same time, testified that about 2 weeks before October 30 Assistant Manager Crockett told him he would be kept on permanently and that Giesy, who did not deny this assurance in his testimony, a few days later affirmed Crockett's statement. It is argued in behalf of the Re-



spondent, based upon Giesy's testimony, that in restaffing the operations Giesy selected from his former employees those whose ability and experience qualified them to do the work which he had available and that he hired new workers based upon the same considerations. I find, however, that the evidence does not establish that any particular skill is required to fill the jobs held by those who were discharged on October 30. The most exacting work was done by the seed cleaners and it appears to be true that following October 30 less seed cleaning was done than before. However, Sams, for example, had worked many years in operations similar to that of Respondent and there is no reason to believe that his services could not have been used by the Respondent in work other than seed cleaning. I credit the testimony of the two Harringtons, and thus discredit that of Giesy, that the latter in February 1954 said that he would shoot himself before permitting the Union to get in to the mills. Of course I do not believe that Giesy intended his statement to be accepted literally, but I am convinced and find that Giesy was strongly and unalterably opposed to the unionization of his working force, and I am convinced and find that the terminations on October 30 sprang directly from this determination. It is true that subsequent to October 30 for a period of months Respondent's operations were on a considerably lesser scale than before. This of course suggests that the Respondent had a need for fewer employees after that date than before and that in any event some individuals

would have found their employment terminated on a date somewhere near October 30. While this consideration in another factual setting might lead to such a conclusion, I am persuaded by a consideration of all evidence concerning Giesy's opposition to the Union that the failure to restaff the mills immediately after the discharges was but part of the entire plan to defeat the employees' desire for representation. Had Giesy immediately hired a number of workers equivalent to those he had discharged the motivation for the discharges would have been too apparent. If the Respondent suffered additional losses by failure to operate at normal capacity for a period following October 30, I believe that it did so as part of a deliberate design to accomplish its principal aim.

The general wage increases made effective after October 30 were, I find, but another implementation of Respondent's design. Such benefits tend to depreciate the value of self-organization and here were given with that aim in view. Of course the wage changes were in derogation of the right of employees to bargain through the Union in such matters.

The altercation between Ray Joyner and Giesy in late December, culminating in Joyner's offer to engage in a fight, evidences conduct on the part of Joyner which I do not condone. I am aware, however, that this unpleasant occurrence took place in a setting where Joyner justifiably believed that he was being discriminatorily deprived of his job. That his restraint was unequal to the stress upon it at

this time does not in my opinion disqualify him for further employment with the Respondent. Giesy had created, unlawfully, the situation which explained Joyner's outburst. I do not believe that Joyner should be penalized for it.

As the motivation for the discharges was to destroy the movement toward organization and, as the Union was and is the exclusive bargaining representative of Respondent's employees in an appropriate unit, I find that by refusing to negotiate with the Union representatives on November 2, the Respondent violated Section 8 (a) (5) of the Act.

I find then that by the statements of Foreman Turner that the Respondent would discharge anyone responsible for starting a union, by Giesy's interrogation of Mumford and of Jones concerning union activity, by Giesy's threat of self-destruction before permitting a union to enter a plant, by the wage increases and the refusal to bargain, and by the discharges of October 30, the Respondent interfered with, restrained, and coerced its employees in the exercise of rights guaranteed in Section 7 of the Act and thereby violated Section 8 (a) (1) of the Act.

#### IV. The effect of the unfair labor practices upon commerce

The operations of the Respondent described in Section I above, occurring in connection with its conduct occurring in Section III above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States and

tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

### V. The remedy

Having found that the Respondent has engaged in certain unfair labor practices, it will be recommended that it be ordered to cease and desist therefrom and take certain affirmative action which I find necessary to effectuate the policies and purposes of the Act. As the Respondent has unlawfully refused to bargain with the Union, the majority representative of its employees in an appropriate unit, it will be recommended that it be ordered to do so upon request of the Union. Having found that the discharges of October 30 were discriminatorily motivated and amounted to interference, restraint, and coercion of rights guaranteed to employees in Section 7 of the Act, it will be recommended that Respondent, to the extent that it has not done so, offer to each employee discharged on that date immediate and full reinstatement to his former or substantially equivalent position and make him whole for any loss of earnings suffered as the result of the discrimination against him from the October 30 date until the date he has been taken back on Respondent's payroll or is offered such opportunity. As the complaint does not allege and the evidence does not establish that the discharge of Conn in February and the two Harringtons in March were in any respect in violation of the Act, reinstatement for these three will not be recommended.



Consistent with the policy of the Board enunciated in *F. W. Woolworth Co.*, 90 NLRB 289, it will be recommended that loss of pay be computed on the basis of each separate calendar quarter or portion thereof during the back pay period. Quarterly periods shall begin with the first day of January, April, July, and October. Loss of pay shall be determined by deducting from a sum equal to that which those discharged on October 30 would normally have earned for each quarter or portion thereof until the date of rehire or offer of reinstatement the net earnings of each during those periods.

### Conclusions of Law

1. American Federation of Grain Millers, Local No. 61, AFL, is a labor organization within the meaning of Section 2 (5) of the Act.

2. All employees, exclusive of office, clerical, and supervisory employees, as defined in the Act, constitute a unit appropriate for purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

3. American Federation of Grain Millers, Local No. 61, AFL, at all times material herein has been and now is the exclusive representative of all employees of the Respondent in the unit aforesaid for purposes of collective bargaining within the meaning of Section 9 (a) of the Act.

4. By unilaterally making wage increases and by refusing to bargain with the above-named union, the Respondent has engaged in and is engaging in

unfair labor practices within the meaning of Section 8 (a) (5) of the Act.

5. By such conduct, by interrogation and threats addressed to employees and by discharging its employees on October 30, 1953, the Respondent has interfered with, restrained, and coerced its employees in the exercise of rights guaranteed in Section 7 of the Act and has thereby engaged in and is engaging in unfair labor practices within the meaning of Section 8 (a) (1) of the Act.

6. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2 (6) and (7) of the Act.

### Recommendations

Upon the basis of the foregoing findings of fact and conclusions of law and the entire record of the case, I recommend that Monroe Feed Store, Monroe and Corvallis, Oregon, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to bargain collectively upon request with American Federation of Grain Millers, Local 61, AFL, as the exclusive representative of all employees at both operations in the appropriate unit in respect of rates of pay, wages, hours of employment, and other conditions of employment.

(b) Interfering with, restraining, or coercing its employees by means of discharge, interrogation, threats, or giving benefits, or in any other manner in the exercise of the right to self-organization, to

form, join, or assist the above-named Union to bargain collectively through representatives of their own choosing, to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all of such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in Section 8 (a) (3) of the Act.

2. Take the following affirmative action which I find will effectuate the policies of the Act:

(a) Offer to all of its employees who were discharged on October 30, except those who have since been rehired, immediate and full reinstatement to their former or substantially equivalent positions, without prejudice to their seniority or other rights or privileges.

(b) Make all such employees whole in the manner set forth in that section of this report entitled "The remedy" for any loss of earnings during the period from October 30, 1953, to the date of rehire or offer of reinstatement.

(c) Upon request, bargain with the above-named Union as the exclusive representative of Respondent's employees in the appropriate unit.

(d) Upon request make available to the Board or its agents for examination and copying all records necessary to or convenient for an analysis of the amount of back pay due under the terms of this Recommended Order.

(e) Post at its operations in Monroe and Cor-

vallis, Oregon, copies of the notice attached hereto as an appendix. Copies of said notice, to be furnished by the Regional Director for the Nineteenth Region, shall, after being duly signed by Respondent's representative, be posted by it immediately upon receipt thereof and be maintained by it for at least sixty (60) consecutive days thereafter in conspicuous places, including all places where notices to employees customarily are posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by other material.

(f) Notify the Regional Director for the Nineteenth Region, in writing, within twenty (20) days from the date of this Recommended Order what steps it has taken in compliance.

It is further recommended that unless within twenty (20) days from the date of receipt of this Recommended Order the Respondent notifies the said Regional Director in writing that it will comply with the foregoing recommendations, the National Labor Relations Board issue an order requiring it to take the action aforesaid.

Dated this 26th day of April 1954.

/s/ WALLACE E. ROYSTER  
Trial Examiner



## APPENDIX

Notice to all employees pursuant to the recommendations of a trial examiner of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, as amended, we hereby notify you that:

We will bargain collectively upon request with American Federation of Grain Millers, Local 61, AFL, with respect to rates of pay, wages, hours of employment, and other conditions of employment, and if an understanding is reached we will embody such understanding in a signed agreement. The bargaining unit is:

All employees, excluding office, clerical, and supervisory employees as defined in the Act.

We will offer immediate and full reinstatement to all of those discharged on October 30, 1953, who have not since been re-employed, and make each of them whole for any loss of pay suffered as a result of the discrimination against them.

We will not by unilaterally changing wages, by interrogation, by threats, or by discharges, or in any other manner interfere with, restrain, or coerce our employees in the exercise of the right to self-organization, to form labor organizations, to join or assist American Federation of Grain Millers, Local 61, AFL, or any other labor organization, to bargain collectively through representatives of their own choosing, to engage in other concerted

activities for the purpose of collective bargaining or other mutual aid or protection, and to refrain from any or all of such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in Section 8 (a) (3) of the Act.

MONROE FEED STORE

Employer

Dated .....

By .....

Representative

Store

This notice must remain posted for 60 days from the date hereof and must not be altered, defaced, or covered by any other material.

---

[Title of Board and Cause.]

EXCEPTIONS TO INTERMEDIATE REPORT  
AND RECOMMENDED ORDER

Respondent Monroe Feed Store does hereby except to the Intermediate Report and Recommended Order of the Trial Examiner in the above entitled case.

Findings of Fact

Respondent specifically excepts to the following findings of fact:

1. The finding that the discharges of certain employees on October 30, 1953, were discriminatory and

were not necessitated and did not spring from economic considerations (Page 5, Line 11-18, Page 6, Line 19-20).

2. The finding that Wayne Geisy, Manager of Monroe Feed Store knew of the unfavorable profit situation prior to October 30, 1953, and that the testimony of Wayne Geisy that he first saw the final profit and loss statement (Respondent's Exhibit 1) on October 30, 1953, was false, and the finding that Wayne Geisy could not know of the unfavorable condition of the operations until he had received the profit and loss statement (Page 5, Line 18-33).

3. The finding that Wayne Geisy made the statement to Frank and Don Harrington that he would shoot himself before permitting the union to get into the Monroe Feed Store (Page 6, Lines 13-16).

4. The finding that the failure to rehire employees and restaff the working force at Monroe Feed Store immediately after the discharge was part of the design and plan to defeat the employees' desire for representation (Page 6, Lines 27-29).

5. The finding that Monroe Feed Store deliberately inflicted economic loss upon itself by failing to operate at a normal capacity after October 30, 1953, as a part of a design to defeat the employees' desire for representation (Page 6, Lines 32-35).

6. The finding that the actions and attitude of Ray Joyner did not disqualify him from further employment by Monroe Feed Store (Page 6, Lines 48-50).

7. The finding that Monroe Feed Store refused to

negotiate with the union and the finding that the refusal to negotiate violated Section 8(a)(5) of the Act (Page 6, Lines 54-58).

8. The finding that Monroe Feed Store interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act and thereby violated Section 8(a)(1) of the Act.

### Remedy

Respondent Monroe Feed Store specifically excepts to the following remedy recommended by the Trial Examiner:

1. The recommendation that Monroe Feed Store be ordered to cease and desist from engaging in unfair labor practices (Page 7, Lines 18-20).

2. That Monroe Feed Store be ordered to offer each employee discharged on October 30, 1953, immediate and full reinstatement to his former or substantially equivalent position (Page 7, Lines 27-30).

3. That Monroe Feed Store be ordered to make each employee discharged on October 30, 1953, whole for any loss of earnings from October 30, 1953, until the date said employee has been re-employed or offered re-employment (Page 7, Lines 30-33).

### Conclusions of Law

Respondent Monroe Feed Store specifically excepts to the following conclusions of law of the trial examiner:

4. By unilaterally making wage increases and by

refusing to bargain with the above-named union, the Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(5) of the Act. (Page 8, Lines 5-8).

5. By such conduct, by interrogation and threats addressed to employees and by discharging its employees on October 30, 1953, the Respondent has interfered with, restrained and coerced its employees in the exercise of rights guaranteed in Section 7 of the Act and has thereby engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(1) of the Act (Page 8, Lines 10-15).

6. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act (Page 8, Lines 16-18).

### Recommendations

Respondent Monroe Feed Store specifically excepts to the following recommendations of the Trial Examiner that the Monroe and Corvallis plants of Monroe Feed Store, its officers, agents, successors and assigns, shall:

#### 1. Cease and desist from:

(b) Interfering with, restraining or coercing its employees by means of discharge, interrogation, threats, or giving benefits, or in any other manner in the exercise of the rights to self-organization to form, join, or assist the above named union to bargain collectively through representatives of their own choosing, to engage in concerted activities for



the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all of such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in Section 8(a)(3) of the Act.

2. Take the following affirmative action:

(a) Offer to all of its employees who were discharged on October 30, 1953, except those who have since been rehired, immediate and full reinstatement to their former or substantially equivalent positions, without prejudice to their seniority or other rights of privileges.

(b) Make all such employees whole in the manner set forth in that section of this report entitled "The Remedy" for any loss of earnings during the period from October 30, 1953, to the date of rehire or offer of reinstatement.

(d) Upon request make available to the Board or its agents for examination and copying all records necessary to or convenient for an analysis of the amount of back pay due under the terms of this Recommended Order.

#### Motion

Respondent Monroe Feed Store excepts to the ruling of the Trial Examiner denying the motion of respondent at the conclusions of the General Counsel's case to dismiss the complaint on the ground that the Monroe Feed Store is not engaged in commerce within the meaning of the Act and on the ground

that the practices charged did not effect commerce within the meaning of the Act and on the further ground that it did not effect the policy of the Act for the Board to take jurisdiction in this case (279, 281, 282).

Respectfully submitted,

/s/ WILLIAM J. MASTERS,

Of Attorneys for Monroe Feed Store

Written request for oral argument is hereby made.

MONROE FEED STORE

/s/ By WILLIAM J. MASTERS,

Of Attorneys

---

United States of America

Before the National Labor Relations Board

Case No. 36-CA-434

MONROE FEED STORE

and

AMERICAN FEDERATION OF GRAIN MILL-  
ERS, LOCAL 61, AFL

### DECISION AND ORDER

On April 26, 1954, Trial Examiner Wallace E. Royster issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices, and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the Respondent

filed exceptions to the Intermediate Report and a supporting brief. The Respondent also requested oral argument. This request is denied as the record and brief, in our opinion, adequately present the issues and the positions of the parties.

The Board has reviewed the rulings of the Trial Examiner made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions, the brief, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.<sup>1</sup>

We find that the Respondent is engaged in commerce within the meaning of Section 2 (6) and (7) of the Act, and that it will effectuate the policies of the Act to assert jurisdiction.

### Order

Upon the entire record in this case, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the Respondent, Monroe Feed Store, Monroe and Corvallis, Oregon, its officers, agents, successors and assigns, shall:

1. Cease and desist from:

(a) Refusing to bargain collectively, upon request, with American Federation of Grain Millers,

---

<sup>1</sup> We note and correct the finding in the Intermediate Report that Manager Giesy interrogated employee Jones concerning union activity in violation of Section 8(a)(1), as there is no evidence in the record of such interrogation. Accordingly, this portion of the Intermediate Report is not adopted.

Local 61, AFL, as the exclusive representative of all employees in the appropriate unit in respect to rates of pay, wages, hours of employment, and other conditions of employment;

(b) Interrogating employees concerning their membership in, or activities on behalf of, American Federation of Grain Millers, Local 61, AFL, or any other labor organization, in a manner constituting interference, restraint or coercion, in violation of Section 8 (a) (1) of the Act; interfering with, restraining, or coercing its employees by means of discharge, threats, or unilaterally granting of benefits, or in any other manner in the exercise of the right to self-organization, through representatives of their own choosing, to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in Section 8 (a) (3) of the Act.

2. Take the following affirmative action, which the Board finds will effectuate the policies of the Act:

(a) Offer to all its employees who were discharged on October 30, 1953, except those who have since been rehired, immediate and full reinstatement to their former or substantially equivalent positions, without prejudice to their seniority or other rights or privileges.

(b) Make all such employees whole in the manner set forth in the section of the Intermediate Report

entitled "The remedy" for any loss of earnings they may have suffered by reason of the Respondent's discrimination against them during the period from October 30, 1953, to the date of rehire or offer of reinstatement.

(c) Upon request, bargain with American Federation of Grain Millers, Local 61, AFL, as the exclusive representative of the Respondent's employees in the appropriate unit, and if an understanding is reached, embody such understanding in a signed agreement.

(d) Upon request, make available to the Board or its agents for examination and copying all payroll records, social security payments, time cards, personnel records and reports, and all other records necessary to analyze the amount of back pay due.

(e) Post at its operations in Monroe and Corvallis, Oregon, copies of the notice attached hereto and marked Appendix.<sup>2</sup> Copies of such notice, to be furnished by the Regional Director for the Nineteenth Region, shall, after being duly signed by the Respondent's authorized representative, be posted by the Respondent immediately upon the receipt thereof, and be maintained by it for a period of at least sixty (60) consecutive days thereafter in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps

---

<sup>2</sup> In the event that this Order is enforced by a decree of a United States Court of Appeals, there shall be substituted for the words "Pursuant to a Decision and Order" the words "Pursuant to a Decree of the United States Court of Appeals, Enforcing an Order."



shall be taken by the Respondent to insure that the notices are not altered, defaced, or covered by any other material.

(f) Notify the Regional Director for the Nineteenth Region, in writing, within ten (10) days from the date of this Order, what steps it has taken to comply herewith.

Dated, Washington, D. C., Oct. 29, 1954.

[Seal]      GUY FARMER, Chairman  
              ABE MURDOCK, Member  
              IVAR H. PETERSON, Member  
              PHILIP RAY RODGERS, Member  
              ALBERT C. BEESON, Member  
              National Labor Relations Board

## APPENDIX

Notice to All Employees Pursuant to a Decision and Order of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, as amended, we hereby notify you that:

We will bargain collectively upon request with American Federation of Grain Millers, Local 61, AFL, with respect to rates of pay, wages, hours of employment, and other conditions of employment, and if an understanding is reached we will embody such understanding in a signed agreement. The bargaining unit is:

All employees, excluding office, clerical, and supervisory employees as defined in the Act.

We will offer immediate and full reinstatement

to all of those discharged on October 30, 1953, who have not since been reemployed, and make each of them whole for any loss of pay suffered as a result of the discrimination against them.

We will not interrogate employees concerning their membership in, or activities on behalf of, American Federation of Grain Millers, Local 61, AFL, or any other labor organization, in a manner constituting interference, restraint or coercion in violation of Section 8 (a) (1) of the Act, or unilaterally change wages, or threaten or discharge employees, or in any other manner interfere with, restrain, or coerce our employees in the exercise of the right to self-organization, to form labor organizations, to join or assist American Federation of Grain Millers, Local 61, AFL, or any other labor organization, to bargain collectively through representatives of their own choosing, to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and to refrain from any or all of such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in Section 8 (a) (3) of the Act.

MONROE FEED STORE,

By .....  
(Representative) (Title)

Dated: .....

This notice must remain posted for 60 days from the date hereof and must not be altered, defaced, or covered by any other material.

In the United States Court of Appeals  
for the Ninth Circuit

No. 15047

NATIONAL LABOR RELATIONS BOARD,  
Petitioner,

v.

MONROE FEED STORE, Respondent.

CERTIFICATE OF THE NATIONAL  
LABOR RELATIONS BOARD

The National Labor Relations Board, by its Executive Secretary, duly authorized by Section 102.84, Rules and Regulations of the National Labor Relations Board—Series 6, as amended, hereby certifies that the documents annexed hereto constitute a full and accurate transcript of the entire record of a proceeding had before said Board, entitled “Monroe Feed Store and American Federation of Grain Millers, Local 61, AFL,” the same being known as Case No. 36-CA-434 before said Board, such transcript includes the pleadings and testimony and evidence upon which the order of the Board in said proceeding was entered, and includes also the findings and order of the Board.

Fully enumerated, said documents attached hereto are as follows:

1. Stenographic transcript of testimony taken before Trial Examiner Wallace E. Royster on March 9 and 10, 1954, together with all exhibits introduced in evidence and rejected exhibit.

2. Respondent's proposed findings and conclusions received by the Trial Examiner on March 26, 1954.

3. Findings of fact and conclusions of law of American Federation of Grain Millers, Local No. 61, AFL (hereinafter called the Charging Party), received by the Trial Examiner on April 8, 1954.

4. Copy of Trial Examiner Royster's Intermediate Report (annexed to item 7 hereof); and copy of Order transferring case to the National Labor Relations Board, both dated April 26, 1954, together with affidavit of service and United States Post Office return receipts thereof.

5. Respondent's exceptions to the Intermediate Report received by the Board on May 17, 1954, containing request for oral argument before the Board. (Request for oral argument denied—see Board's Decision and Order, pg. 1, par. 1.)

6. Charging Party's telegram dated May 19, 1954, objecting to acceptance and consideration by Board of affidavit annexed to Respondent's exceptions, and urging that Board adopt entire Intermediate Report and Recommended Order. (Granted — see Board's Decision and Order, pg. 1, par. 2.)

7. Copy of Decision and Order issued by the National Labor Relations Board on October 29, 1954, with copy of Intermediate Report annexed, together with affidavit of service and United States Post Office return receipts thereof.

8. Respondent's motion for order modifying or setting aside the finding, conclusion and recommendation of the Trial Examiner and the Board's Order

with regard to Respondent's violation of Section 8 (a) (1) of the Act, or, in the alternative, for an order reopening hearing for receipt of certain testimony, received by the Board on July 12, 1955.

9. General Counsel's motion for denial of Respondent's motion for order modifying or setting aside, or for reopening hearing, received by the Board on July 22, 1955.

10. Charging Party's objections to Respondent's motions for order modifying or setting aside, or for reopening hearing, received by the Board on July 25, 1955.

11. Copy of Board's Order denying Respondent's motion for order modifying, etc., issued on August 24, 1955, together with affidavit of service and United States Post Office return receipts thereof.

In Testimony Whereof, the Executive Secretary of the National Labor Relations Board, being thereunto duly authorized as aforesaid, has hereunto set his hand and affixed the seal of the National Labor Relations Board in the city of Washington, District of Columbia, this 30th day of March, 1956.

[Seal]            /s/ FRANK M. KLEILER,  
Executive Secretary, National  
Labor Relations Board



[Endorsed]: No. 15047. United States Court of Appeals for the Ninth Circuit. National Labor Relations Board, Petitioner, vs. Monroe Feed Store, Respondent. Transcript of Record. Petition for Enforcement and Petition for Review of Order of the National Labor Relations Board.

Filed April 3, 1956.

/s/ PAUL P. O'BRIEN,  
Clerk of the United States Court of Appeals for the  
Ninth Circuit.

---

In the United States Court of Appeals  
for the Ninth Circuit

No. 15047

NATIONAL LABOR RELATIONS BOARD,  
Petitioner,

v.

MONROE FEED STORE,      Respondent.

PETITION FOR ENFORCEMENT OF AN OR-  
DER OF THE NATIONAL LABOR RELA-  
TIONS BOARD

To the Honorable, the Judges of the United States  
Court of Appeals for the Ninth Circuit:

The National Labor Relations Board, pursuant to the National Labor Relations Act, as amended (61 Stat. 136, 29 U. S. C., Secs. 151, et seq.), hereinafter called the Act, respectfully petitions this Court for the enforcement of its order against Respondent, Monroe Feed Store, Monroe and Corvallis, Ore-

gon, its officers, agents, successors and assigns. The proceeding resulting in said order is known upon the records of the Board as "Monroe Feed Store and American Federation of Grain Millers, Local 61, AFL, Case No. 36-CA-434."

In support of this petition the Board respectfully shows:

(1) Respondent is a corporation engaged in business in the State of Oregon, within this judicial circuit where the unfair labor practices occurred. This Court therefore has jurisdiction of this petition by virtue of Section 10 (e) of the National Labor Relations Act, as amended.

(2) Upon due proceedings had before the Board in said matter, the Board on October 29, 1954, duly stated its findings of fact and conclusions of law, and issued an Order directed to the Respondent, its officers, agents, successors and assigns. On the same date, the Board's Decision and Order was served upon Respondent by sending a copy thereof post-paid, bearing Government frank, by registered mail, to Respondent's Counsel.

(3) Pursuant to Section 10 (e) of the National Labor Relations Act, as amended, the Board is certifying and filing with this Court a transcript of the entire record of the proceeding before the Board upon which the said Order was entered, which transcript includes the pleadings, testimony and evidence, findings of fact, conclusions of law, and the Order of the Board sought to be enforced.

Wherefore, the Board prays this Honorable Court that it cause notice of the filing of this petition and transcript to be served upon Respondent and that

this Court take jurisdiction of the proceeding and of the questions determined therein and make and enter upon the pleadings, testimony and evidence, and the proceedings set forth in the transcript and upon the Order made thereupon a decree enforcing in whole said Order of the Board, and requiring Respondent, its officers, agents, successors, and assigns, to comply therewith.

Dated at Washington, D. C., this 23rd day of February, 1956.

/s/ MARCEL MALLET-PREVOST,  
Assistant General Counsel, National  
Labor Relations Board

[Endorsed]: Filed Feb. 24, 1956. Paul P. O'Brien,  
Clerk.

---

[Title of U. S. Court of Appeals and Cause.]

PETITION FOR REVIEW OF FINAL ORDERS OF THE NATIONAL LABOR RELATIONS BOARD

To: The Honorable Judges of the United States Court of Appeals for the Ninth Circuit:

Monroe Feed Store, pursuant to the National Labor Relations Act, as amended (61 Stat. 136, 29 USC, Sections 151 et seq) hereinafter called the Act, respectfully petitions this Court for review of Orders of the National Labor Relations Board against petitioner, Monroe Feed Store, Monroe and Corvallis, Oregon, its officers, agents, successors and assigns. The proceedings resulting in said orders is

known upon the records of the Board as "Monroe Feed Stores and American Federation of Grain Millers, Local 61, AFL, Case No. 36-CA-434."

In support of this petition, Monroe Feed Store respectfully shows:

1. Petitioner is a corporation engaged in business in the State of Oregon, within this judicial circuit, wherein the unfair labor practice in question was alleged to have been engaged. This Court therefore, has jurisdiction of this petition by virtue of Section 10(f) of the National Labor Relations Act as amended.

2. Upon proceedings had before the Board in said matter, the Board, on October 29, 1954, stated its findings of fact and conclusions of law, and issued an order directed to the petitioner, its officers, agents, successors and assigns. On the same date, the Board's decision and order was served upon petitioner by the Board sending a copy thereof postage paid, bearing Government frank, by registered mail to petitioner's Counsel. On August 24, 1955, the Board, after having duly considered Petitioner's motion and brief for an order modifying or setting aside the findings, conclusions and recommendation of the Trial Examiner and Order of the Board, or in the alternative, for an Order reopening the hearing, issued an order denying petitioner's motion. The Board's order was served upon Petitioner by registered mail August 26, 1955.

3. Petitioner seeks review of the Board's orders on the following grounds:

(1) Petitioner was denied due process of law by reason of the bias and prejudice of the Trial Exam-

iner in refusing to require that the affidavit of Dave Crockett be produced by the General Counsel of the National Labor Relations Board and admitted into evidence as requested by the Petitioner.

(2) The findings of fact and conclusions of law of the Trial Examiner and the National Labor Relations Board are not supported by substantial evidence on the record considered as a whole.

(3) The Decision and Order of the National Labor Relations Board is not reasonably designed to effectuate the policies of the National Labor Relations Act.

(4) The National Labor Relations Board acted arbitrarily and capriciously, and abused their discretion, thereby denying due process of law to petitioner, by denying petitioner's motion for an order modifying or setting aside the findings, conclusions and recommendations of the Trial Examiner, and Order of the Board, or in the alternative, for an Order reopening the hearing for the receipt of further testimony.

4. Pursuant to Section 10(f) of the National Labor Relations Act as amended, Petitioner is filing with this Court a transcript of the entire record in the proceeding, certified by the Board, including the pleading and testimony upon which the Order complained of was entered and the findings and orders of the Board.

Wherefore, your Petitioner prays this honorable Court that it cause notice of filing of this petition and transcript to be served upon Respondent, and that this Court take jurisdiction over the proceed-



ings and of the questions determined therein, and make and enter upon the pleadings, testimony and evidence in the proceeding set forth in the transcript, a decree modifying or setting aside in whole or in part the Orders of the National Labor Relations Board.

MONROE FEED STORE,

a corporation

/s/ By WAYNE R. GIESY,

President

MASTERS AND MASTERS

/s/ By W. MASTERS,

Of Attorneys for Petitioner

[Endorsed]: Filed Mar. 8, 1956. Paul P. O'Brien,  
Clerk.

---

[Title of U. S. Court of Appeals and Cause.]

ANSWER TO PETITION FOR  
ENFORCEMENT

Comes now respondent, Monroe Feed Store, and files its answer to the petition for enforcement as follows:

I.

Respondent is a corporation engaged in business in the State of Oregon, within this judicial circuit, wherein the unfair labor practice in question was alleged to have been engaged.

II.

Upon proceedings had before the Board in the matter known upon the records of the Board as

"Monroe Feed Store and American Federation of Grain Millers, Local 61, AFL, Case No. 36-CA-434," the Board, on October 29, 1954, stated its findings of fact and conclusions of law, and issued an order directed to the Respondent, its agents, successors, and assigns. On the same date, the Board's decision and order was served upon Respondent by the Board sending a copy thereof, postage paid, bearing Government frank, by registered mail to Respondent's Counsel. On August 24, 1955, the Board, after having duly considered Respondent's motion and brief for an order modifying or setting aside the findings, conclusions and recommendation of the Trial Examiner, and Order of the Board, or in the alternative, for an Order reopening the hearing, issued an order denying Respondent's motion. The Board's order was served upon Respondent by registered mail August 26, 1955.

### III.

Respondent was denied due process of law by reason of the bias and prejudice of the Trial Examiner in refusing to require that the affidavit of Dave Crockett be produced by the General Counsel of the National Labor Relations Board and admitted into evidence as requested by the Respondent.

### IV.

The findings of fact and conclusions of law of the Trial Examiner and the National Labor Relations Board are not supported by substantial evidence on the record considered as a whole.

### V.

The Decision and Order of the National Labor

Relations Board is not reasonably designed to effectuate the policies of the National Labor Relations Act.

## VI.

The National Labor Relations Board has acted arbitrarily and capriciously, and abused their discretion, thereby denying due process of law to Respondent by denying Respondent's motion for an order modifying or setting aside the findings, conclusions and recommendations of the Trial Examiner, and Order of the Board, or in the alternative, for an Order reopening the hearing for the receipt of further testimony.

Wherefore, your Respondent prays this honorable Court that the Court make and enter upon the pleadings, testimony and evidence in the proceedings set forth in the transcript a decree modifying or setting aside, in whole or in part the orders of the National Labor Relations Board.

MONROE FEED STORE,  
a corporation

/s/ By WAYNE R. GIESY,  
President

MASTERS & MASTERS

/s/ By W. MASTERS,  
Of Attorneys for Respondent

Affidavit of Service attached.

[Endorsed]: Filed Mar. 8, 1956. Paul P. O'Brien,  
Clerk.

[Title of U. S. Court of Appeals and Cause.]

STATEMENT OF POINTS RELIED UPON

1. The Board properly asserted jurisdiction in the case.

2. The Board properly found that by threatening, interrogating and discharging its employees, respondent violated Section 8 (a) (1) of the National Labor Relations Act, as amended.

3. The Board properly found that by refusing to bargain with American Federation of Grain Millers Local 61, AFL, and by granting unilateral wage increases respondent violated Section 8 (a) (5) and (1) of the Act.

\* \* \* \* \*

Dated at Washington, D. C., this 30th day of March, 1956.

/s/ MARCEL MALLET-PREVOST,  
Assistant General Counsel, National  
Labor Relations Board

[Endorsed]: Filed April 3, 1956. Paul P. O'Brien, Clerk.

---

[Title of U. S. Court of Appeals and Cause.]

STATEMENT OF POINTS RELIED UPON

1. Petitioner was denied due process of law by reason of the bias and prejudice of the Trial Examiner in refusing to require that the affidavit of Dave Crockett be produced by the General Counsel of the National Labor Relations Board and admitted into evidence as requested by the Petitioner.

2. The findings of fact and conclusions of law of the Trial Examiner and the National Labor Relations Board are not supported by substantial evidence on the record considered as a whole.

3. The Decision and Order of the National Labor Relations Board is not reasonably designed to effectuate the policies of the National Labor Relations Act.

4. The National Labor Relations Board acted arbitrarily and capriciously, and abused their discretion, thereby denying due process of law to petitioner by denying petitioner's motion for an order modifying or setting aside the findings, conclusions and recommendations of the Trial Examiner, and Order of the Board, or in the alternative, for an Order reopening the hearing for the receipt of further testimony.

5. Monroe Feed Store did not discharge any employees in violation of Section 8(a)(1) of the National Labor Relations Act, as amended.

6. Monroe Feed Store did not refuse to bargain with the American Federation of Grain Millers, Local 61, AFL, and did not violate Section 8(a)(5) and (1) of the Act by granting unilateral wage increases or refusing to bargain.

Dated at Portland, Oregon, this 5th day of April, 1956.

**MASTERS & MASTERS**

/s/ By W. MASTERS,

Attorneys for Monroe Feed Store

[Endorsed]: Filed April 6, 1956. Paul P. O'Brien, Clerk.



Before the National Labor Relations Board  
Nineteenth Region

Case No. 36-CA-434

In the Matter of:

MONROE FEED STORE

and

AMERICAN FEDERATION OF GRAIN MILL-  
ERS, LOCAL 61, AFL

TRANSCRIPT OF PROCEEDINGS

Circuit Court Room, Benton County Court House  
Corvallis, Oregon

Tuesday, March 9, 1954

Pursuant to notice, the above-entitled matter came  
on for hearing at 10 o'clock, a.m.

Before: Wallace E. Royster, Esq., Trial Exam-  
iner.

Appearances: Howard A. McIntyre, Esq., 407  
U. S. Court House, Seattle, Washington, appearing  
on behalf of General Counsel, National Labor Rela-  
tions Board. Paul T. Bailey, Esq., 1130 Southwest  
3rd Avenue, Portland, Oregon, appearing on behalf  
of American Federation of Grain Millers, Local 61,  
AFL, the Charging Party. A. L. Stevens, 310 South-  
west Columbia, Portland, Oregon, appearing on be-  
half of American Federation of Grain Millers, Local  
61, AFL, the Charging Party. [1\*]

---

\* Page numbering appearing at top of page of original certified  
Reporter's Transcript.

Masters & Masters, by William J. Masters, Esq., 703 Yeon Building, Portland 4, Oregon, appearing on behalf of Monroe Feed Store, the Respondent.

Proceedings

Trial Examiner Royster: The hearing will be in order.

This is a formal hearing before the National Labor Relations Board in the matter of Monroe Feed Store and American Federation of Grain Millers, Local 61, AFL, Case No. 36-CA-434.

My name is Wallace E. Royster, the Trial Examiner designated to hear the evidence and make findings of fact and conclusions of law and recommendations to the Board in respect to the issues.

Will counsel please state their appearances for the record?

Mr. McIntyre: Howard A. McIntyre, appearing for the General Counsel of the National Labor Relations Board, 407 U. S. Court House, Seattle, Washington.

Mr. Masters: William J. Masters, appearing for Monroe Feed Store, 703 Yeon Building, Portland, Oregon.

Mr. Bailey: Paul T. Bailey, appearing for American Federation of Grain Millers, Local 61, 1130 Southwest 3rd, Portland 4, Oregon. [4]

\* \* \* \* \*

Mr. McIntyre: As General Counsel's Exhibit 1-D, the complaint issued in the name of and against Monroe Feed Store in Case No. 36-CA-434, issued by

Thomas P. Graham, Jr., Regional Director, on the 1st day of February, 1954.

(Thereupon the document above referred to was marked General Counsel's Exhibit No. 1-D for identification.)

\* \* \* \* \*

Mr. McIntyre: And as General Counsel's Exhibit 1-F, the answer to the complaint in Case No. 36-CA-434, the answer being filed by Masters & Masters, attorneys for Monroe Feed Store, and the answer being a general denial of the allegations of the complaint. [6]

\* \* \* \* \*

Trial Examiner: All right, the exhibit is received.

(The documents heretofore marked General Counsel's Exhibits Nos. 1-A to 1-F, inclusive, for identification, were received in evidence.)

Mr. McIntyre: I offer this exhibit in duplicate.

Now, Mr. Examiner, I would also desire to move to correct Paragraph VIII on Page 4 of the complaint to read Paragraph XIII, having been a typographical error. Instead of an "X", a "V" was made.

\* \* \* \* \*

Mr. McIntyre: Also, then, I would desire to have the formal documents comply with the correct name of the store as has been issued in the complaint, naming Monroe Feed Store. [7]

Trial Examiner: With no objection, the documents are all corrected to read "Monroe Feed Store". [8]

\* \* \* \* \*

WAYNE R. GIESY

a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. McIntyre): Mr. Giesy, what is your full name, please?

A. Wayne R. Giesy.

Q. And what is your address, sir?

A. Monroe, Oregon.

Q. Mr. Giesy, where are you employed?

A. I am employed as manager of Monroe Feed Store.

Q. Now, where is your immediate place of business as manager of Monroe Feed Store?

A. The last few days I've been operating out of the Corvallis plant.

Q. And is that your normal location? Is that the normal location for the manager of Monroe Feed Store?

A. Well, to qualify that, I will have to go back to a summer or two ago. I worked part time at both places.

Q. Well, then, the Monroe Feed Store consists of two operations, or two locations?

A. It consists of a location at Monroe and one at Corvallis.

Q. And what is the type of operation at Monroe Feed?

A. We are grain and seed, feed, and fertilizer.

(Testimony of Wayne R. Giesy.)

Q. And you do the same at both operations in Corvallis and Monroe?      A. Yes.

Q. Now, how long have you been manager at the Monroe Feed Store?      A. Seven years.

Q. Seven years, and before that time did you have any other position with the company?

A. Monroe Feed Store was a newly formed corporation at that time.

Q. Now, under what State laws was the Monroe Feed Store incorporated?

A. Under Oregon corporation law.

Q. And you are engaged in both buying and selling of feed?      A. Yes.

Q. And also grains?      A. Yes.

Q. Now, do you manufacture poultry and dairy feed?      A. Yes.

Q. Now, do you purchase and sell and manufacture these commodities all in both locations?

A. We do manufacture at both locations. They vary some.

Q. Now, you say they vary some. In which way do they vary?

A. In the machinery that's available at each location.

Q. There are certain types of operations that can be done at one plant that cannot be done at the other?      A. Yes. [10]

Q. Which of the two operations is the bigger?

A. The Monroe Feed Store at Monroe has a little more volume than does Corvallis. May I qualify that?



(Testimony of Wayne R. Giesy.)

Q. Certainly.

A. By saying—of sales. That doesn't particularly at all times mean processing.

Q. Now, is the operation a year round operation?

A. I would classify it seasonal to the degree that we accumulate our majority of grains during the harvest period, and then it has to taper off as the year progresses.

Q. In other words, you get all of your raw materials from the immediate area, is that right?

A. Most of the raw materials from the immediate area.

Q. Now, do you get any raw materials from outside of this area?

A. Some of them that we manufacture, we do.

Q. Now, what are those raw materials?

A. Well, those would be such things as meat meal, alfalfa meal, different ingredients that we might mix into feeds.

Q. Now, where do you get your meat meal?

A. Meat meal is purchased generally from the Eugene area.

Q. From Eugene?           A. Eugene, yes.

Q. And where do you get your alfalfa meal?

A. Generally from Portland. [11]

Q. Well, actually speaking, although it is not within the immediate area, it is within the State of Oregon?   A. Yes.

Q. Now, although you get that from Eugene, is that manufactured in Eugene, do you know?

(Testimony of Wayne R. Giesy.)

A. Yes, that particular product is manufactured in Eugene.

Q. And the alfalfa meal from Portland, Oregon, is that manufactured in Portland?

A. I would say it would probably be manufactured in eastern Oregon and shipped into Portland.

Q. But it is the type of raw material that would be obtainable in the State of Oregon?

A. Yes.

Q. At the present time, Mr. Giesy, what is the volume, or what has been the volume of purchases of raw materials that your company has made for both operations in the past 12 months?

A. Are you speaking of dollar volume?

Q. Dollar volume of raw material.

A. Well, I'm not in a position to answer accurately. I could only make an estimate.

Q. Could you make an accurate estimate, do you believe?      A. It would be very difficult.

Q. Is it in excess of \$100,000?      A. Yes.

Q. Is it in excess of half a million? [12]

A. I would say it was in excess of a half a million dollars, yes.

Q. Would you say it was as much as a million dollars?

A. You're speaking of both operations?

Q. Yes.

A. Yes, I would say it would probably be close to a million dollars. I wouldn't want to qualify that figure either way because I wouldn't be sure.

(Testimony of Wayne R. Giesy.)

Q. But it would be a figure of around a million dollars? A. Yes.

Q. Now, that would be purchase of raw materials? A. Yes.

Q. That is in a way of speaking of—oh, of grain and meat meal, or whatever it was, and alfalfa meal, and those are the commodities that were to your knowledge all grown and purchased in the State of Oregon? A. Yes.

Q. Now, in the purchases of your materials, do you make any purchases outside the State of Oregon of raw materials, first?

A. I can't think of any occasion that I have right now. It's a possibility that we have some time or other, but I do not recall any right at the moment.

Q. Well, now, have you purchased in the past 12 months any machinery of any kind for the operations? A. Yes. [13]

Q. And what type of machinery have you had occasion to purchase? A. Cleaner——

Q. Pardon?

A. Cleaner—scalper and cleaner.

Q. And what is the approximate price of that cleaner?

A. The cleaner would run about \$4,500.

Q. Now, where was that purchased?

A. Through a Portland agent.

Q. Do you know whether or not that is manufactured in the State of Oregon? A. It is not.

Q. It's not? But you purchased it in Portland, through an agent in Portland? A. Yes.

(Testimony of Wayne R. Giesy.)

Q. Did he have that shipped directly from Portland, or directly from the plant?

A. We picked it up at Portland.

Q. You picked it up in Portland? A. Yes.

Q. Now, did you purchase any other machinery during the past 12 months, other than that cleaner and scalper?

A. We purchased a truck.

Q. A truck? A. Yes. [14]

Q. And was that truck new? A. Yes.

Q. What was the value of it?

A. I would say around \$5,000.

Q. About \$5,000. Where was that purchased?

A. That was purchased here in Corvallis.

Q. Here in Corvallis? A. Yes.

Q. Now, do you know whether or not that was manufactured in Oregon?

A. No, it would not have been.

Q. Now, was there any other piece of machinery that you purchased in the past 12 months for the operation of either operation?

A. I do not recall offhand of any other pieces of equipment.

Q. Now, in the past 12 months, would you say that your volume of sales exceeded a million dollars?

A. Yes, they have.

Q. Now, what are the commodities that you sell?

A. We sell malting barley, we sell wheat, oats, peas——

Q. Peas? A. Peas, hairy vetch.

Q. What was that?

A. H-a-i-r-y — vetch — v-e-t-c-h; common vetch.

(Testimony of Wayne R. Giesy.)

Q. Common? [15]            A. Common.

Q. What is this vetch? Is that a poultry feed, or something like that?

A. No. That is a winter cover crop, legume.

Q. Oh.

A. Legume is a nitrogen producing plant that they use for soil building.

Q. And what else?            A. Feed, fertilizer.

Q. Is there more than one type of feed?

A. For all types of poultry and livestock, yes.

Q. I mean, it's the one type of feed, and it covers all the poultry?

A. No. It can be dairy feed, hog feed, cattle concentrates. I mean there are various—there's as many as the proprietary houses in Portland provide us with.

Q. And then, besides feed, what?

A. Fertilizers. There are many numerous other seeds that we would handle. I've kind of lost—other than the ones that I have mentioned. I could mention some red clover, metafoxtail, sudan grass.

Q. But they would all come under the category of seeds, is that right?            A. Seeds, yes.

Q. And is there anything else? [16]

A. We handle a little hardware equipment from time to time, not very expensive.

Q. That is——            A. Just a minor line.

Q. Now, of the hardware equipment, what would you estimate the total volume of your business in the last 12 months of hardware?



(Testimony of Wayne R. Giesy.)

A. Percentage-wise, it would practically be nil; less than a per cent.

Q. What about seeds?      A. Seeds?

Q. About how much in sales did you make of seeds?

A. I would say this year about 15 per cent.

Q. Fifteen per cent?      A. Yes.

Q. Now, that would be 15 per cent of what figure? In excess of—

A. I do not recall our sales up to date, but I would say that whatever our sales figure is to date, it would be 15 per cent of the figure in excess of the million dollars.

Q. Well, let's figure a little closer on the million dollars. How much in excess of a million dollars would you say? Would it be as much as 2 million dollars?

A. No, it wouldn't be as much as 2 million dollars.

Q. Would it be as much as a million and a half?

A. I don't think so. It could possibly approach the million and a half figure. I'm not qualified to say without—

Q. Would it be between \$1,300,000 and \$1,500,000?

A. I would say that would be very close.

Q. So then your seed would take about 15 per cent of that figure. Now, what about your fertilizer?

A. Fertilizer would run some place between 10 and 15 per cent.

Q. What about feed?

(Testimony of Wayne R. Giesy.)

A. Feed, I would say, would run 20 per cent.

Q. Twenty per cent? A. Yes.

Q. And what about barley and wheat and oats?

A. That would make up the balance.

Q. The barley, wheat, oats, peas and vetch would make up——

A. No. The vetch would be counted as seed.

Q. Oh, vetch would be counted as seed?

A. Yes.

Q. So then barley, wheat, oats, and seeds would be some place in the neighborhood of 50 per cent?

A. Yes.

Q. Now, how do you prepare the seed when you're getting ready to ship it? First of all, what is the first process for the operation of your seed?

A. We would scale it first. By that I mean make a weight ticket. We would either bin it or pile it up in sacks, depending [18] on the way it was delivered to us by the farmer, and hold it until it would be processed over small cleaners. By that, we run it through a scalping cleaner, a carder, and then a finishing cleaner, and separate all the different items, that were delivered, into separate units for shipment.

From that, we get the clean seed, which, as I say, in this case would be vetch, gray oats, screenings. It might be weed seeds, dirt, chaff, et cetera, and that's packed in that condition. The vetch is fumigated and then put in the car and shipped.

Q. And then when it's to be shipped from the operation, or when it's to be sold, in what manner is it sold?

(Testimony of Wayne R. Giesy.)

A. Carload lots, as a general rule.

Q. Carload lots? A. Carload lots.

Q. And is it bulk in the carload, or is it put in 100 pound sacks, or 200 pound sacks?

A. We have put it in both ways.

Q. Put it in both ways?

A. But generally it is in 100 pound sacks.

Q. Now, in the past 12 months, what was—who did you sell your seed to?

A. Primarily to E. F. Burlingham & Sons.

Q. C. S. Burlingham?

A. E. F. Burlingham.

Q. E. F. Burlingham? [19]

A. And Sons.

Q. And where is their principal office?

A. Forest Grove.

Q. Forest Grove? A. Yes.

Q. Is that in Oregon?

A. That's in Oregon.

Q. And what type of business is Burlingham?

A. I would say they were purchasers and producers of field seeds.

Q. Do you know whether or not they operate in States other than the State of Oregon?

A. Yes, they do.

Q. To your knowledge, what other States do they operate in?

A. I would say they would sell to maybe a dozen or two dozen different States.

Q. Are they known in the general business of seed and feed throughout the country as a multi-

(Testimony of Wayne R. Giesy.)

state operation? Do you know what I mean when I say "multi-state"?

A. Well, I wouldn't say that they were multi-state. I would say that they are Oregon processors and shippers.

Q. Shipping outside the—— A. Yes.

Q. ——State of—— A. Of Oregon. [20]

Q. ——of Oregon? A. Yes.

Q. Now, you sold—about what percentage of the seeds did you say you sell to Burlingham? Would it be close to 100 per cent?

A. Well, I would say 90 per cent of the seeds would go to Burlingham, and perhaps the rest would be diverted into other channels, some of which would be retail.

Q. Well, now, you don't retail seed or feed, or any other commodity, away from Monroe or Corvallis though, do you?

A. No, we haven't, as of up to date.

Q. I mean you don't have a place of retail, other than those two locations?

A. Those two locations are our only places of retail for physical plant operations. We might deliver a load of retail feeds into other areas, or seeds into other areas, should the farmer come in and ask for them.

Q. What I mean is: You don't have a retail store? A. No.

Q. Now, with reference to the seed that you sell, that is made up in carload lots?

A. Generally.

(Testimony of Wayne R. Giesy.)

Q. And is that always sent to the one destination, that that is sold to Burlingham?

A. No. I have no more to do with it than execute their bill of lading that they supply. [21]

Q. And the execution of the bill of lading——

A. Is just deposited at the depot, and mail them the copies of it.

Q. Then, at the time you handle this, or sell it to Burlingham, you have no knowledge of its destination?

A. I can read it off the bill of lading, yes.

Q. In the past 12 months, have you read off of the bill of lading the ultimate destination of any of the seed that you sold to Burlingham?

A. Yes.

Q. Now, was any of that that you sold to Burlingham shipped directly outside the State of Oregon? A. Yes.

Q. Of that that you sold to Burlingham in the past 12 months, what percentage would you say was being shipped directly outside of Oregon?

A. I wouldn't wish to venture a guess. I don't pay that close of attention to them because I relinquish my right to that seed when it's loaded aboard the car.

Q. Well, do you have copies of your bills of lading? A. Yes.

Q. Could you check back over a period of 12 months and by looking at those bills of lading determine where that seed is being shipped?

A. Yes. [22]



(Testimony of Wayne R. Giesy.)

Q. Have you got those bills of lading present?

A. Yes.

Q. Would you examine those now and see if you can make a percentage determination of what per cent in the past 12 months was destined to locations outside the State of Oregon?

Trial Examiner: Do you want the witness to interrupt his testimony at this point to make that examination?

Mr. McIntyre: I would like to, and I would also like to have a brief recess while that is being done.

Trial Examiner: All right, I think we'd better take a recess.

(Short recess taken.)

Trial Examiner: On the record.

Q. (By Mr. McIntyre): Mr. Giesy, during the recess, did you examine your books for the last 12 months to determine the percentage volume of seeds sold to Burlingham that was shipped directly outside the State of Oregon?

A. It would amount to about 41 per cent.

Q. About 41 per cent?

A. Of our total shipments to E. F. Burlingham & Sons.

Q. So that it won't be too difficult to figure the percentages, the value of that seed, would it be valued in excess of \$100,000, of that which was shipped directly outside the State?

A. It wouldn't be probably.

Q. Well, let's see—over \$200,000—\$210,000 worth

(Testimony of Wayne R. Giesy.)

of seed [23] is sold to Burlingham, or has been sold to Burlingham in the last 12 months?

A. Well, you could take 41 per cent of it.

Q. Forty-one per cent of that would have been consigned to points outside the State of Oregon?

A. Yes.

Q. Now, that leaves 59 per cent, and that 59 per cent was sold to Forest Grove, is that right?

A. Right.

Q. Now, do you have any knowledge of the sales of that seed after it gets to Forest Grove?

A. I relinquish all my right to the seed, as I stated before, when it's loaded aboard the car. Therefore, I am not advised any further of what happens to that material.

Q. Then you of your own knowledge do not have any idea what happens to it?

A. I have no records to substantiate the disposition of any of that seed.

Q. Well, now, getting to the fertilizer, where do you ship or sell your fertilizer?

A. We sell all our fertilizer, I would say, in a 30 mile radius of either plant.

Q. And what about the feed?

A. Well, it would be all sold within the State of Oregon.

Q. Now, outside the seed that is consigned to points outside [24] the State of Oregon which you have sold to Burlingham, is there any commodity handled by your stores that is shipped outside the State of Oregon, any other commodity?

(Testimony of Wayne R. Giesy.)

A. None that we have direct loadings on, to my knowledge.

Q. Well, any that you have indirect lading on?

A. Well, I wouldn't have—what I'm driving at: I would not have the information as to what the disposition would be.

Q. Yes, I realize that, but I want to know whether you have—whether you make any shipments, other than seed?

A. We sold last year \$200 worth, I think, of seed into California, and I think I gave that in testimony to your field examiner. To my knowledge, that is the only seed, other than—or any item, other than what goes to Burlingham that we ship directly out of the State.

Q. Well, now, let's see. Based on all figures, your sales of seed, I believe, you estimated came to about 15 per cent of your sales?      A. Yes.

Q. And of that 15 per cent, approximately 90 per cent was sold to Burlingham?      A. Yes.

Q. And of that 90 per cent, 41 per cent was shipped to points outside the State of Oregon?

A. Yes.

Q. One other thing about the corporation: I believe you [25] stated that the company was incorporated in 1947?      A. Right.

Q. Under the laws of Oregon?      A. Yes.

Q. And is that corporation—has it been continuously to this date in existence?      A. Yes.

Q. And it is the same corporation as was incorporated in 1947?      A. Yes.

on them. We would have the invoice.

Q. Well, do you know whether or not that corn came from within the State of Oregon?

A. I couldn't answer it. I would just surmise that it possibly came from outside the State because we're not a corn producing State, but I cannot say definitely whether it did or didn't. [26]

Q. What would be the value in the 12 month period, the last 12 months period, of the corn which was purchased?

A. We would probably purchase from two to three cars of corn.

Q. And what would the value per car be?

A. I would say about \$3,000.

Q. And what about cottonseed meal?

A. Cottonseed meal.

Q. Did you purchase any of that?

A. We purchase that from Stoll in Portland.

Q. And where is that shipped from?

(Testimony of Wayne R. Giesy.)

Q. Now, do you make any purchases of corn?

A. Yes, we do.

Q. Where do you make those purchases from?

A. I purchase those from Fay Malone in Portland.

Q. And where are they shipped from?

A. I would not have that information.

Q. They ship from Portland?

A. I'm not in position to answer because I don't know that. I select the routing on the cars that come in. As a matter of fact, we wouldn't have a routing

(Testimony of Wayne R. Giesy.)

A. I would imagine it would be shipped from California.

Q. No cottonseed meal is made in Oregon, is there?      A. Not to my knowledge.

Q. And is it shipped directly from California to your place of operation through your broker? That is, you make arrangements with your broker to have it shipped to you?

A. Yes, we would have some that would come directly to us.

Q. And what would be the value of the cottonseed meal that you have purchased in the last 12 months?

A. Probably between 7 and 8 thousand dollars worth.

Q. Now, did you purchase any fertilizer?

A. Yes.

Q. Did you purchase any fertilizer that originated outside the State of Oregon?

A. I would imagine the majority of it would probably originate [27] outside the State of Oregon, but we purchase it from Oregon people.

Q. You purchase it through a broker in Oregon?      A. Through brokers, yes.

Q. And is it shipped directly from its place of origin to your plant?      A. Generally it is.

Q. And what would be the value of the fertilizer that you purchased in the last 12 month period?

A. Well, I think I quoted you figures there.

Q. Oh, they would be the same? I have 10 to 15 per cent of your sales.      A. Yes.



(Testimony of Wayne R. Giesy.)

Q. And that would be the very same amount?

A. It would be very close to that, I would say.

Q. Then the 10 to 15 per cent of your total sales is also the same figure as is shipped to you?

A. Well, it wouldn't—we would have a markup, of course. You can figure what normal markups are and work back to that, but I do not purchase from other than Oregon brokers.

Q. Well, would you say that you handle fertilizer valued at—or do you import or purchase fertilizer valued in excess of \$100,000?

A. I would say we purchase in excess of \$100,000, yes.

Q. Would you say it would be as much as \$200,000?

A. No.

Q. It would be more than that?

A. I would say very close to the \$100,000 figure, somewheres between 100 and 125 thousand dollar figure.

Q. And where would that ordinarily originate?

A. Canada manufactures fertilizers, California manufactures fertilizer, Utah manufactures fertilizer. I do not know the points of origin. I wouldn't be prepared to even state the points of origin because I haven't paid that close attention to where we have purchased our fertilizer from.

Q. But practically all of it originates outside the State of Oregon?

A. Yes.

Q. That you purchase?

A. I would say so.

Q. What about soybean meal?

(Testimony of Wayne R. Giesy.)

A. Very little soybean meal is purchased, and that we would purchase within the State because we are not prime users of soybeans.

Q. Do they have soybean meal in the State?

A. Well, we would buy it from a stocking warehouse in Portland because we would pick it up in small amounts.

Q. What about millrun?

A. Millrun—I don't know where that is produced, to be very truthful with you. I mean our purchases I haven't followed down. [29] We purchased some of that from Mr. Malone, again. That could be produced by Pillsbury, I presume, there at Astoria; perhaps Crown Mills, Centennial Milling. I'm not sure where the shipments are from.

Q. Is it manufactured in Oregon?

A. Well, there are flour plants in Oregon, which it is a by-product of flour.

Q. But you have no idea—

A. I have no idea as to the origin of our shipments of millrun.

Q. Now, do you make any sales to Kerr Gilford Company?

A. Kerr Gifford?

Q. Gifford, is it?

A. Yes.

Q. Where is that located?

A. Portland, Oregon.

Q. Is that the same type of operation as Burlingham?

A. No.

Q. Is that a local operation?

A. That is grain primarily when I say "no".

(Testimony of Wayne R. Giesy.)

Q. What type of commodities do you sell to them?

A. I sell wheat to them. I have sold barley to them. I have sold oats to them.

Q. Do you know whether or not, of your own knowledge, whether or not they ship outside the State of Oregon? [30]

A. Oh, definitely they would.

Q. What about Archer-Daniels-Midland Company?

A. Their offices are in Portland.

Q. In Portland?      A. Yes.

Q. And do you know if they ship outside the State?      A. Yes.

Q. And what do you sell to them?

A. We would sell the same commodities.

Q. What would be the approximate value in the last 12 months of the commodities you sold to them?

A. I didn't catch the question.

Q. What would be the approximate value of the commodities you have sold to them in the last 12 months, to Archer-Daniels?

A. Probably \$400,000 worth.

Q. Probably how much?      A. \$400,000.

Q. About \$400,000?      A. Yes.

Q. What about Balfour Guthrie Company?

A. They're the same type of operators as are Kerr Gifford and Archer-Daniels-Midland.

Q. And what would be the approximate value

(Testimony of Wayne R. Giesy.)

of the commodities you've sold to them in the last 12 months?      A. Practically nil. [31]

Q. Practically nil. Now, do you have any other—this Archer-Daniels, are they a brokerage company?

A. No, I can't say that they're definitely brokers. They're grain and storage and brokers.

Q. Do you know if they do any grain storage in the State of Oregon?      A. No.

Q. Where is that?

A. They are located at Vancouver.

Q. Vancouver, Washington?

A. Yes. Their offices are in Portland.

Q. When you make your shipment of grain, where do you ship it?

A. To Portland, Oregon, Archer-Daniels-Midland.

Q. Now, is that—but that is in a form that they then would have to do more processing with it, is that not right?

A. They can divert it, or they might resell it. They have the option of moving it to their liking after it hits Portland.

Q. But if they were going to process it, it would then be processed in the operation in Vancouver?

A. Yes, definitely.

Q. Now, outside of the companies that you have testified about here, do you know of any other companies that you have dealt with in the past 12 months, such as Kerr Gifford, Archer-Daniels,

(Testimony of Wayne R. Giesy.)

or Balfour Guthrie, or Burlingham, that you've made sales to?

A. I've sold seeds to Northrup King. [32]

Q. To whom?      A. Northrup King.

Q. Northrup King?      A. Yes.

Q. Is that a company that ships in interstate commerce, do you know?      A. Yes.

Q. Would it fall in the same type of category as Burlingham & Sons?

A. The only thing I have done for them is deliver materials to their Albany plant. I have no information as to the further disposition.

Q. King?

A. Northrup King, same company.

Q. And what would be the value of the commodities you've delivered to the Albany plant in the last 12 months?

A. You're approaching questions now that would be very difficult to answer, I mean, without going entirely through the books, because they are—they might vary from \$5,000 to \$25,000. It is very difficult to remember each sale throughout a year's period.

Q. Would it be possible for it to be in excess of \$25,000?

A. I would say it would be impossible for it to be in excess of that figure.

Q. Would you also hold that it would be [33] impossible for it to be less than \$5,000?

A. That's rather a difficult one to answer. I don't know.



(Testimony of Wayne R. Giesy.)

Q. But your total transactions with them over a period of 12 months would not exceed \$25,000?

A. Absolutely not. It might not even approach that figure.

Q. Well, now, Mr. Giesy, at the present time, you are manager of Monroe Feed, and that covers both stores, does it not?      A. Yes.

Q. Now, how many employees do you have as of now that are employed at the Corvallis operation?

Trial Examiner: Are you interested in employees in certain categories, certain classifications? Or, are you interested in office employees?

Mr. McIntyre: Yes, as a matter of fact, I was going to ask for a breakdown after the total, yes, sir.

Trial Examiner: All right.

The Witness: Four are presently employed.

Q. (By Mr. McIntyre): Does that include yourself?      A. No.

Q. And what are the job classifications of those four?      A. We have a working foreman.

Q. Working foreman?

A. Two cleanermen.

Q. Two cleanermen.

A. And one man that does feed mixing and floor work, whatever [34] it might—warehousing, whatever might be necessary.

Q. General—

A. General duties.

Q. Mixer and general?      A. Yes.

(Testimony of Wayne R. Giesy.)

Q. Now, those are the only four employees that you have at Corvallis?      A. Yes.

Q. Now, when you state working foreman, what are his duties?

A. He has from time to time cleaned grain. He waits on some of the retail trade, loads trucks, comes into the office to see what orders are to be filled, and general duties of helping line up the shipments.

Q. Now, his title is a working foreman. Where does the foreman part come in?

A. Well, he directs the other men to some degree in the plant.

Q. Does he have the authority to fire any of the employees?      A. I would say "yes".

Q. Does he have the authority to hire any?

A. He hasn't had the opportunity as yet.

Q. In your absence; who does the hiring?

A. At present, I have.

Q. In your absence, when in need of another employee, would he have the authority to hire?

A. I don't think that he would put on anyone else, no. [35]

Q. Now, in the direction of work, does he exercise any independent judgment on the direction of the work?

A. Yes. It would be necessary for him to.

Q. It would be necessary for him to exercise independent judgment any time that you were gone anyway?      A. Yes.

Q. Is that right?      A. Yes.

\* \* \* \* \*

(Testimony of Wayne R. Giesy.)

Q. Now, to Monroe, how many employees do you have in the Monroe store?

A. I believe nine.

Q. Nine? [36]

A. Yes. I'll count again—nine. [37]

\* \* \* \* \*

Q. Now, could I have a breakdown of those nine employees, their job classifications?

A. One we have as assistant manager that works in the office and out in the mill whenever it's necessary. One is our field man, works in the field, in the office, and in the mill when needed.

Q. Field man? What is his primary job as field man?

A. Well, it would be divided.

Q. Pardon?

A. It would be divided between some office work, some field work approximately two days a week, sometimes three days a week, and in the mill intermittently.

Q. And other than assistant manager and field man, then who?

A. We have a lady that works in the office doing the books.

Q. Yes.

A. I mentioned the two grindermen. We have two men on trucks.

Q. Two grindermen?

A. Well, the one on the day crew, and the one on the evening.

Q. Yes.

A. And we have a man that does general duties

(Testimony of Wayne R. Giesy.)

around the mill, such as cleaning up, counting sacks, et cetera. Occasionally, he does some floor work, very little, and we have a man that is cleaning up the back of the mill for, oh, I would [38] say a week and a half now.

Q. He's been cleaning up?

A. Cleaning up, rearranging the floor plan of the mill.

Q. Now, is he a full time employee?

A. It will take him full time, yes.

Q. Did you employ him with the intention of having him as a full time employee, or until he's through with the cleaning up?

A. No. If he works out satisfactory on other duties, after he's done with the cleaning, we will keep him as a full time employee.

Q. And who else?

A. Two men that work on the trucks.

Q. Let's see. I have here that you have nine employees.

A. Two men that work on the trucks.

Q. Two men on the trucks?

A. I think that adds up.

Q. Now, those are the nine employees at the company?      A. Yes. [39]

\* \* \* \* \*

Q. Then your two grinder men, you have one in the day and one at night?      A. Yes.

Q. And they do—that's their duty? I mean their duties are exactly what their title describes them to be?

(Testimony of Wayne R. Giesy.)

A. I would say grinding and mixing.

Q. Now, how long has the grinderman for the night shift been with you?

A. He has worked intermittently for us since about June or July of '53.

\* \* \* \* \*

Q. What about your day grinder?

A. He's been there about three years to three and a half years. [44]

Q. And has he always been full time during that three and a half years? A. Yes.

Q. And then you've got a general handy man. What are his—are his hours the same, 8:00 to 5:00, normally?

A. I think that he normally now is working 8:00 to 5:00.

Q. In other words, his hours at least would be as normal as those of the day grinderman?

A. Yes.

Q. And his duties are cleaning up and loading and general jobs that come up around the mill?

A. Yes.

Q. Now, how long has he been with the operation? A. Two years, I believe.

\* \* \* \* \*

Q. Getting back now also to the—before getting to the—oh, then you've got the one cleanup man, and he's been there for two weeks, did you say?

A. He's been there about two weeks now, yes.

Q. About two weeks? A. Yes. [45]

Q. Did he work before that time?



(Testimony of Wayne R. Giesy.)

A. He has worked for us several years ago, but he hasn't worked for us for a period, I'd say, of three years.

Q. And he is doing cleanup work, or rearranging?

A. Rearranging, and it was necessary to have a man that knew a little bit about grain to do that rearranging.

Q. Is that moving machinery?

A. No. That is moving different types of grain.

Q. Now, you have a mixerman or a mixer that does general work in Corvallis. How long has he been with your operation?

A. I would say about a year.

Q. About a year?            A. Yes.

\* \* \* \* \*

Q. And what about the other cleanerman?

A. The other cleanerman was prior foreman at Monroe that we have transferred to Corvallis. [46]

\* \* \* \* \*

Q. Now, Mr. Giesy, have you as General Manager of Monroe Feed Store in the past few days either petitioned the National Labor Relations Board or under your immediate direction have had occasion to petition the National Labor Relations Board for a determination of representatives of your employees?

A. We have through our attorneys, Masters & Masters, petitioned the National Labor Relations Board for a vote. I presume that's the way you are putting the question.

(Testimony of Wayne R. Giesy.)

Q. Yes. Now, when was that done?

A. I'll have to refer to Mr. Masters and ask him what specific day it was filed on.

Q. Well, it has been done in the last——

A. Within the last week's time.

Q. Now, in that petition, did you set out what you believed to be an appropriate unit for collective bargaining?

A. I'll have to refer to my attorney again for that answer.

Q. Do you know whether or not—well, you directed that the petition be filed, is that right?

A. I will put it this way, that I was advised within the last two weeks' time that we should file a petition for determination.

Q. Well, now——

Mr. McIntyre: I haven't got a copy of that petition. Do you have a copy of that petition?

Mr. Masters: Yes. Do you want to see it? [50]

Mr. McIntyre: I believe it just happened in the last day or so.

Mr. Masters: I'd like to have this introduced, if you want to look at it.

Mr. McIntyre: All right.

Mr. Masters: You can go ahead and introduce it if you want.

Mr. McIntyre: If there's no objection, I will introduce it as my own. I'd like to have marked for indention what purports to be a copy of a petition for certification of representatives of the Monroe Feed Store employees.

(Testimony of Wayne R. Giesy.)

(Thereupon the document above referred to was marked General Counsel's Exhibit No. 2 for identification.)

Q. (By Mr. McIntyre): I show you that petition and ask you to examine it and tell me if that is a true copy of the petition which was filed with the National Labor Relations Board, Sub-Regional office in Portland, Oregon, by your counsel?

A. Yes.

Mr. McIntyre: I offer General Counsel's Exhibit No. 2 in evidence.

Mr. Bailey: No objection.

Mr. Masters: No objection.

Trial Examiner: Without objection, it is received. [51]

(The document heretofore marked General Counsel's Exhibit No. 2 for identification, was received in evidence.)

Trial Examiner: Will you get a copy of this, a duplicate?

Mr. McIntyre: Yes, I'll contact the Portland office. I believe it was just filed yesterday.

Q. (By Mr. McIntyre): Mr. Giesy, I call to your attention the description of the unit which is a description for a unit which would be eligible to vote in this election, and it consists—it is a unit which would include all regular production, maintenance, warehouse, and clerical employees, and it would exclude managerial employees.

Do you consider that a unit appropriate for collective bargaining at the present time?

(Testimony of Wayne R. Giesy.)

A. I would, under the advice of my counsel, consider it to be, yes. [52]

\* \* \* \* \*

Q. Now, do you know Mr. Stevens of the Grain Millers Union?           A. Yes, I do.

Q. Do you recall when you first met Mr. Miller—I mean—Mr. Stevens?

A. I think I met him three or four years ago.

Q. Did you ever meet him in any way connected with your operation of your Corvallis and Monroe feed stores? [53]

A. Very recently. In the early part of November, I met him relative to the operation of the Monroe and Corvallis feed stores.

Q. Now, that was November of 1953?

A. Yes.

Q. Do you recall what day in November that was?

A. I would say it was the 2nd or the 3rd. I'm not sure.

Q. And where was it that you met Mr. Stevens?

A. In the office.

Q. In the office of your store in Monroe?

A. Yes.

Q. And who was present at that time?

A. I believe Mr. Stevens, Mr. Shaffer, and I think that Mrs. Urbach was present at that time.

Q. She is the girl—the lady that works in the office?           A. Yes.

Q. And would you identify Mr. Shaffer, if

(Testimony of Wayne R. Giesy.)

you're able to? That is, do you know what Mr. Shaffer does?

A. Yes, he introduced himself at that time.

Q. And who did he introduce himself as?

A. As an associate of Mr. Stevens.

Q. And at that time did you know what Mr. Stevens was?

A. Yes, I had met Mr. Stevens prior through a mutual friend, and he had described his activities, as well as I identifying myself. [54]

Q. Now, do you recall what time of day it was when you met Mr. Stevens and Mr. Shaffer in your office?

A. I would say late afternoon.

Q. Late afternoon? A. Yes.

Q. Now, would you be able to place more definitely what day it was? You say it was either November 2nd or 3rd. Do you know whether or not it would be a Monday or a Tuesday?

A. It would have been a Monday.

Q. It would have been a Monday, and would it be the Monday which would be either November 2nd or 3rd, whichever the case might be?

A. Probably be the first.

Q. Then it would be November 2nd because November 2nd of 1953 was a Monday?

A. Yes.

Q. And it was in the afternoon. Who was the first person to speak when the—that you recall when Mr. Shaffer and Mr. Stevens came into the office?

A. Well, I believe it was Mr. Stevens made



(Testimony of Wayne R. Giesy.)

mention that he was the representative of the men at Monroe Feed Store.

Q. About how long in all did the meeting or the visit take place on November 2nd in your office?

A. Ten minutes.

Q. About 10 minutes, and would you tell—and you did have a [55] conversation at that time?

A. Yes.

Q. Now, would you tell for the record what that conversation consisted of, what you said, and what Mr. Stevens said, what Mr. Shaffer said? First of all, one——

A. I won't identify which one of them said it because I do not recall. I'll state what I remember as being told to me.

Q. Well, first, one other question before we get to that: Where was the girl who works in the office, the lady who works in the office? Where was she at the time?

A. She would have been, I believe, in the inner office.

Q. And how far would that be from the location of your conversation with Mr. Shaffer and Mr. Stevens?

A. It would be 10 feet.

Q. Is there any partition between them?

A. There's an open door and a partition, yes.

Q. From where you were standing at the time, were you able to see her?           A. No.

Q. Do you know if the door was open or closed?

(Testimony of Wayne R. Giesy.)

A. The door is open practically 100 per cent of the time. I would assume that it was open.

Q. But where you were standing, you were not able to see the lady in the office?

A. That's right. [56]

Q. In other words, it would be the same as from where Mr. Stevens and Mr. Shaffer were standing?

A. I would say "yes". The door would have been open because I walked through the door, and I wouldn't have closed it for any reason.

Q. It would be, as you say, normally open?

A. Yes.

Q. Now, would you state now what that conversation was that you had at that time?

A. Well, it developed into the discussion that they were attempting to organize a union.

Q. Well, what was said about it?

A. Pardon me?

Q. What was said as near as you can recall the exact words that were spoken?

A. Well, I recall that one of them said that they represented my men and wished to organize a union.

Q. And what did you say?

A. And I said at the time that I didn't have any employees.

Q. Did you have any employees at that time?

A. I had just my office help.

Q. And what then did they say?

A. They said if I didn't wish to cooperate that they would file an unfair labor suit against me.

(Testimony of Wayne R. Giesy.)

Q. What was your answer to that? [57]

A. I don't recall that I had an answer to it.

Q. Do you recall whether or not they said anything else?

A. I don't recall that they did.

Q. Now, thinking back over what your testimony has just been, and what the conversation was at that meeting, can you think of anything else that was said by either you, Mr. Shaffer, or Mr. Stevens?

A. I think that they mentioned that they'd had difficulty with me before and that I hadn't favored some men that favored union activities, and I denied that I had ever taken offense to any man favoring their convictions as far as union activities was concerned, and I think that concluded the conversation.

As a matter of fact, it went as far, as I recall now, that they said I had discharged a man because he had favored union activities, which I have not.

Q. Now, thinking over it all, would you restate what that conversation was and in the best order that you can recall that the conversation took place?

A. Well, first of all, I'd like to make this statement, if I may: That on the Saturday afternoon following the lay-off on the Friday, I was visited by one man who at that time indicated to me that the men that I had discharged had been dissatisfied, according to him, and had favored a union.

So, when Mr. Stevens and Mr. Shaffer walked in,

(Testimony of Wayne R. Giesy.)

I had expected somebody to come in, which would only substantiate what [58] the individual had told me. So, in the conversation, my thinking had been drawn out that far up to that time.

So, when Mr. Stevens and Mr. Shaffer came in, they stated, I think in their first bit of conversation, that they represented the men in our plant and wished to organize a union, and I at that time stated to them that I didn't have the working employees in the plant, and that they didn't represent them because they weren't my employees, in——

Q. And then what did they say?

A. ——relationship to me. Then it developed into the discussion that they thought that at some time before I had discharged an individual because he had talked union, and I denied it at that time, which I will go further to say that the individual that they spoke about was Mr. Don Thorne, and I had no knowledge of Mr. Don Thorne's interest in the union, and I had transferred him from the back of the mill to try to make a field man out of him, and he terminated his employ of his own accord.

Q. That was some time back?

A. That was some time back, and that was the discussion that they accused me of at that time.

Q. Did they ask you who your legal counsel was at that time?

A. No, they did not, to my knowledge.

Q. Now, was there anything else to that conversation?

(Testimony of Wayne R. Giesy.)

A. I don't recall anything further. [59]

\* \* \* \* \*

Q. Well, now, when was the very first time that you had any knowledge that the employees in your plant were considering a union?

A. On the Saturday afternoon that Mr. Cantrell came in and specifically said that the boys had been considering a union.

Q. Now, I ask you, Mr. Giesy, if, before that Saturday afternoon, you did not have some conversation with Mr. David Crockett?

A. Yes, I did have.

Q. And when was that conversation?

A. I would say perhaps a week earlier, to my knowledge.

Q. Would it have been some time around October 28th or 29th?

A. Yes, I think it would have been, since I think of it, because I believe I was on a trip the first part of that week.

Q. So that—now, who is David Crockett?

A. David Crockett at that time was the assistant manager of the Monroe Feed Store, and his point of operation was Corvallis. [60]

Q. And his normal place of operation was Corvallis, was it not?      A. Yes.

Q. And would you say that you visited—at that time that you visited the Corvallis plant more often than he visited the Monroe plant?

A. I would say "yes".

Q. In other words, it would be quite rare any-



(Testimony of Wayne R. Giesy.)

way for Mr. Crockett to have occasion to come to the Monroe plant?

A. No, quite the contrary. It would be very often that he would come to the Monroe plant.

Q. How often would he come there?

A. I would say two or three times a week.

Q. Now, you did then have a conversation with Mr. David Crockett some time around October 28th or 29th about the union, did you not?

A. Mr. Crockett told me at that time that he had heard at the Southern Pacific Railroad that the boys had considered a union, and that they'd had a meeting some place in the rural area, and Mr. Crockett also told me at that time that he had pinpointed the individual, and the individual denied that they had had any union activity, that it wasn't a union meeting, and no union men were there, and I dismissed it as being not anything to do with organization because I would have no reason to believe otherwise. [61]

Q. Did he tell you that they had already had a meeting, or that they were going to have one?

A. No. The man, when he related his tale to Mr. Crockett, told him that the boys had had a get-together, but it was not a union meeting, and there were no union representatives there.

Q. Was the person who related it to Mr. Crockett at that time an employee of your company?

A. Yes.

Q. Is it not true that it was pinpointed more

(Testimony of Wayne R. Giesy.)

direct, and it was pinpointed to the very location, the very town that it was?

A. I think it was pinpointed to the very town it was, yes.

Q. And what was that town?

A. Bellfountain.

Q. Bellfountain?           A. Yes.

Q. So then, either October 28th or 29th of 1953, you learned from Mr. David Crockett, who was the manager or assistant manager in Corvallis, that he had learned from the Southern Pacific depot, from an employee there, that there was going to be or that there was a get-together, or union meeting, at Bellfountain?           A. That is——

Q. Of your company employees?

A. That is what Mr. Crockett developed and had refuted by the individual. So, I took no stock in it, other than rumor. [62]

Q. Now, what did Mr. Crockett advise you at that time as to whether he had taken any steps to learn if that was true?

A. He had told me at the time we discussed the matter that he had learned about the meeting, and he had also asked the man about it, and it was denied that there was any union activity, and there was no reason for me to believe any further.

Q. Did Mr. Crockett also tell you that he had asked if it had been a union meeting?

A. Yes, he had advised me that on that visitation. [63]

(Testimony of Wayne R. Giesy.)

\* \* \* \* \*

Q. Now, you had, I believe you stated, on Saturday—the Saturday before November 2nd—you had some conversation with one of your employees relative to the union?      A. Yes.

Q. Now, where did that conversation take place?      A. In the office at Monroe. [67]

\* \* \* \* \*

Q. Now, who was the employee that you had the conversation with?      A. Floyd Cantrell, Sr.

\* \* \* \* \*

Q. Now, was this conversation on Saturday relative to the lay-off?

A. It had to do with the lay-off, yes.

Q. And did it also have to do with the union?

A. He brought the union in it at that time. That's the first.

Q. That was the first at that time?

A. Yes, that was the first that I knew about the union.

Q. Were there any other topics discussed at that time?

A. Yes, there were other topics discussed, such as, I think [68] the one he mentioned, was that I hated to see a man stand idle, and we discussed other items.

Q. Well, now, going back over that conversation, would you repeat now for the record what that conversation was that you had with Mr. Cantrell, Sr., I believe it is, is it not?

A. Yes, it's Sr.

(Testimony of Wayne R. Giesy.)

Q. On Saturday, October 31st.

Trial Examiner: 30th, according to the calendar, I believe.

Mr. McIntyre: Saturday would be the 31st, and Sunday would be the 1st, and Monday would be November 2nd.

Trial Examiner: That's right.

\* \* \* \* \*

Q. But on this Saturday morning, you had nobody but the office force?

A. That is correct.

Q. Now, what had happened in the meantime with the other employees you had, the production and maintenance employees?

A. The evening before, I had discharged all the production and maintenance employees.

Q. Now, did you lay off or did you discharge Mr. Cantrell, Sr.?

A. Without being entirely sure, I think I would term it a lay-off at the present time.

Q. Well, where did it take place?

A. Where did the lay-off take place?

Q. Yes, where did this action to terminate the employees take place?

A. In the Monroe office.

Q. In the Monroe office?           A. Yes.

Q. And was there anyone there, other than the employees of the Monroe operation?

A. When they were laid off? [71]

Q. That was October 30th when they were laid off?           A. I don't think so.

(Testimony of Wayne R. Giesy.)

Q. The employees from Corvallis were not there?      A. No.

Q. Now, who were the employees as of that date, October 30th, 1953?

A. Of the Monroe operation?

Q. Of the Monroe operation?

A. Well, I could look up here and—Floyd Cantrell, Jr., and Floyd Cantrell, Sr.

Q. Well, now, if you will, so we won't have to go back over it, if you will state their name and what their job was.

A. All right. Floyd Cantrell, Jr., was a truck driver. Floyd Cantrell, Sr., was a cleanerman. Don Harrington did some cleaning and other work around the warehouse. Frank Harrington did cleaning. Ellis Conn worked on the grinder and mixer. Tom Cook worked on the grinder and mixer. Ray Joyner, I believe, was working a half a day at the time, and Kenneth Mumford worked on the floor some and other odd jobs.

Q. And that was the total of the employees at Monroe?      A. I believe it was.

Q. On October 30th?

A. Yes. Oh, there was one other one. Mr. Johnson worked on the cleanup.

Q. Mr. Johnson?      A. Yes.

Q. Now, those were the total employees that were employed at the Monroe operation on October 30th?      A. Yes.

\* \* \* \* \*

Q. Now, their employment was all—were all of



(Testimony of Wayne R. Giesy.)

their terms of employment terminated on that date?

A. Yes.

Q. And what time of day was it?

A. It was 6 o'clock in the evening.

Q. And did you—how did you go about advising them? A. How did I advise them?

Q. That they were through?

A. As the men came into the office, as they all gathered in the office, why, I advised them that it was necessary for us to discontinue our operation due to the fact that we hadn't done well economically. [73]

\* \* \* \* \*

Q. Now, just what words did you use in telling them that their employment was terminated?

A. As I recall it, I told them that we were compelled to shut down at least for the present due to reasons of not an economical operation.

Q. And those were the words that you used?

A. As nearly as I can recall. At least, that was specifically the meaning.

Q. Now, since that date, have you advised any of those other employees that their termination is in any other status than it was on that night?

A. I think that it was the general feeling, at least for myself, and I think it was understood by them that we were to discontinue until we could find an economical way to operate, and at that time I don't think that anything further was stated to them. [74]

(Testimony of Wayne R. Giesy.)

\* \* \* \* \*

Q. Now, before that date of October 30th, did you—before the date of October 30th, you had had a conversation with Mr. Crockett, either on October 28th or 29th, relative to a meeting in Bell-fountain, is that not right?      A. Yes.

Q. Which you have already testified to?

A. Yes.

Q. Now, did you have any other conversation with any of the other employees, or with any of the employees, or any of your other supervisors, before October 30th at 6 o'clock, or the conversation that you had with Mr. Crockett relative to the union?

That's a long question. If you don't understand all of it, I will—

A. Yes. I believe Kenneth Mumford came into the office on Friday and purchased something from the firm, and, at that time, he made some mention as to a get-together that the boys had had, nothing about union meeting, nothing about union activity.

Q. What did he mention then?

A. Only a get-together.

Q. Well, how did it come up?

A. He brought it up himself. [75]

Q. Who was in the office?

A. I believe June Urbach was in the office at that time.

Q. Do you know for sure if she was?

A. I would say she was, yes.

Q. And was there anyone else?

(Testimony of Wayne R. Giesy.)

A. There was a farmer, I believe, in the office at that time. I can't recall who it was.

Q. And was there anyone else?

A. Not to my knowledge.

Q. Now, what time of day was it?

A. I would say some time after dinner.

Q. Some time after dinner?      A. Yes.

Q. That again is the noon hour?

A. I'll call it lunch from now on.

Q. Now that you have recalled who was there, the time of day it was, and what day it was, will you state what the conversation was that was said by Mr. Mumford, and what you answered in return?

A. Only that he mentioned the boys had had a get-together, which just substantiated what Mr. Crockett had told me.

Q. Did he mention where it had been?

A. Yes, I think he mentioned it had been——

Q. Did he mention who was there?

A. No, he did not mention who was there. [76]

Q. Now, did he mention what the purpose of it was for?      A. No.

Q. Well, was it customary for Mr. Mumford to advise you every time the employees did have a get-together?

A. Nothing other than being friendly towards myself. I presume that I have done him a few favors, and we just conversed on a friendly basis. It wouldn't be anything further than that. I wouldn't think it would be customary for him to

(Testimony of Wayne R. Giesy.)

tell me all his actions. He might make mention of them himself.

Q. Now, other than your conversation with Mr. Mumford and Mr. Crockett, before October the 30th at 6 o'clock, had you had any conversation with any of the employees or other supervisors relative to the union problem?      A. No.

Q. Now, up till 6 o'clock of October the 30th, had you advised any of the employees that the company was in such a status as it would be necessary for a reduction or a lay-off?      A. No, sir.

Q. Then on October 30th, that was the very first knowledge of the results of what you divulged to the employees, that there was to be a lay-off?

A. That is right. [77]

\* \* \* \* \*

Q. Now, after the lay-off of October 30th, when was the first time that you took back any employee?

A. I think about Tuesday or Wednesday of the next week.

Q. Tuesday or Wednesday of the next week, and who did you take back?      A. Tom Cook.

Q. Tom Cook. What job did he go back on?

A. Grinding and mixing.

Q. That was the same job that he had held before?      A. Yes, sir. [78]

\* \* \* \* \*

Q. At that time—at the time that he was going back to work, or he was advised that he was to go back to work, did you have any conversation with him relative to the union at that time?

(Testimony of Wayne R. Giesy.)

A. As I recall, the union activity was mentioned.

Q. Union activity, meaning what?

A. He mentioned that there had been some signing of cards.

Q. Some what?           A. Pardon me?

Q. He mentioned what?

A. That some of the boys had signed union cards, or interest in the union. I'm not acquainted with it because I have not seen any of the cards, or do I know what they are specifically.

Q. What did you say when he told you that?

A. I would have—or I did tell him that the lay-off didn't [80] have anything to do with the union activity, because it was economy and that was the only premise that I could stand on, and it will go back to any testimony that you wish to take from me.

Q. Did he tell you whether or not he had signed a card?

A. Yes, he said he had signed a card.

Q. And did he say anything else?

A. No, I don't recall that he did.

Q. Do you recall the fact that he stated that he had signed a union card, but that he was not particularly for the union?

A. I think that was the conversation, yes.

Q. Now, who was the next employee that you called back to work?

A. I believe Floyd Cantrell, Jr.

Q. When was he called back to work?



(Testimony of Wayne R. Giesy.)

A. I think a couple of weeks later.

Q. A couple weeks later?      A. Yes.

Q. What job was he called back to?

A. Truck driving.

Q. Is that the same job he had held before?

A. Yes.

Q. Was he called back at the same rate of pay?

A. No, he was not called back at the same rate of pay.

Q. Was he called back at a higher rate of pay? [81]

A. He was called back at \$1.50 an hour based on a subsequent contract that we could arrive at for having the hauling done for that figure. [82]

\* \* \* \* \*

Q. Now, who was the next man that you called back to work?

A. I think Frank Harrington.

Q. Frank Harrington, and what was his job?

A. Cleaning again.

Q. And what was he before?

A. Cleanerman.

Q. When was he called back to work?

A. I would say some time along in January.

Q. Some time in January?

A. Yes, the latter part.

Q. Pardon?

A. I think the latter part of January. \* \* \* \* \*

Q. Then who was the next man you hired back?

A. I think Don Harrington. [84]

(Testimony of Wayne R. Giesy.)

Q. Don Harrington, and when did you hire him back?

A. I think along about the first week or so in February.

Q. First week in February? A. Yes.

Q. What did you hire him back as?

A. He did odd jobs, such as he'd been doing before, no specific work. [85]

\* \* \* \* \*

Q. Well, when the Harringtons were called back, both Frank and Don, what was their rate of pay? Was it higher or lower than when they had been laid off?

A. It was the same as when they were laid off.

Q. What was it when they were laid off?

A. \$1.20 an hour.

Q. \$1.20 an hour? A. Yes.

Q. And they were called back at \$1.20 an hour?

A. I believe so.

Q. Did that also provide for overtime?

A. Yes.

Q. And was there overtime at that time that they were called back?

A. Well, without going back to the time book, I believe that they were hired at the same rate, and, shortly thereafter or maybe in the interim between hiring one or the other, we decided to try the basis of 40 hours at \$1.50 an hour straight through for all the maintenance workmen in the mill. [87]

(Testimony of Wayne R. Giesy.)

\* \* \* \* \*

Q. In the meantime, had any other employees been laid off, any of those that you had called back, namely, Tom Cook, Cantrell, Jr., Frank Harrington, or Don Harrington?

A. I'll have to go back and correct that down here. I've gotten out of chronological order.

We had hired Ellis Conn back, I think, as the third man being hired back.

Q. The third man? He was hired back right after Cantrell, Jr., and before Frank Harrington? [89]

A. I believe so.

Q. Now, then, Mintonye—then your work force at that time, was it made up of Tom Cook, Cantrell, Jr., Frank Harrington, Don Harrington, Conn, and Mintonye?

A. When we took Mintonye on as a truck driver, we had discontinued having Ellis Conn as a mixerman.

Q. Then who was the next person you called back?

A. I believe that includes all of them up to date at the Monroe plant.

Q. At the Monroe plant?

A. Yes. Now, let me go back over the total list of who are working there now so I haven't missed any or gotten any out of order. I have mentioned Tom Cook, Floyd Cantrell, Jr., Frank and Don Harrington, Ellis Conn—we have one other employee there—Elmer Simons.

(Testimony of Wayne R. Giesy.)

Q. Simons? When was he employed?

A. Well, he was employed for trucking, and, when we discharged Ellis Conn, we transferred him to mixing and employed Mintonye. [90]

\* \* \* \* \*

Q. Now, then, in the meantime, have you discharged any of those persons that you just named?

A. Yes, I have.

Q. Who were they?

A. I have let Frank and Don Harrington go, and we have transferred the foreman from the other plant. We made him a cleanerman at this plant at Corvallis.

Q. At the present time, who are your truck drivers?      A. Who are the truck drivers?

Q. Yes.

A. Floyd Cantrell, Jr., and Mintonye.

Q. Now, on October 30th, 1953, who were your truck drivers?

A. Floyd Cantrell, Jr., and I think perhaps one of the Harrington boys occasionally did some trucking, and Elmer Simons.

Q. Was Simons employed on October 30th?

A. He might not have been employed on that specific date, but he had been employed intermittently all through the summer and fall, and whenever we had employment for him to do.

Q. Then one of the Harringtons—what was it, Don Harrington who did the truck driving, or was it Frank?

A. I think it was Don Harrington did some of the trucking. [91]

(Testimony of Wayne R. Giesy.)

Q. Why didn't you hire him back as a truck driver instead of Mintonye?

A. We employed Don Harrington back into the mill because he had experience with the grain and the seeds, and how it should be handled in there, and we told he and Frank at the time we employed them that we would try to operate as far as possible and as long as possible if they could keep the mill in a good shape and in tidy order.

On January 31st, after spending some two months cleaning up the plant and getting it into a chronological order of all lots and varieties and kinds, we took an inventory. In three hours, two men took the entire inventory at Monroe. At the end of February, on February 28th, or 29th, whichever the day was, we started in to take the inventory after having the two men in the back cleaning and warehousing, and it took the two men two days to take that same inventory we took in three hours the month before.

It was my decision at that time that they had not fulfilled their portion of the bargain.

Q. Well, the Harrington boy was a truck driver up till October 30th?

A. No, he wasn't entirely a truck driver. He worked in the mill and on the truck and in shipping. He was not a truck driver. [92]

\* \* \* \* \*

Q. Now, getting to the Corvallis plant, who was employed in the Corvallis plant as of October 30th, 1953?



(Testimony of Wayne R. Giesy.)

A. Webster Sams, Ralph Jones, Jess Howe, Mr. Gann——

Q. Mr. who?

A. Mr. Gann—G-a-n-n, and I failed to mention we would still classify him in an employee classification; however, he is in the hospital at this time, and it has been necessary for us to put on additional help to take his place.

Q. Was Mr. Gann in the hospital at the time of—— A. Right now, presently.

Q. Presently?

A. And it is necessary for us to have another man to take his place at the Corvallis plant.

Q. Now, Webster Sams, Howe, and who else did you say? Gann?

A. Ralph Jones, Mr. Gann, and Whalen Emerson.

Q. Now, what was Gann's job on October 30th?

A. He did some office work, some retail trade, some warehousing, wherever he was needed.

Q. What is he doing now? What job is he classified as although he's in the hospital?

A. I would classify him as a maintenance and operation employee.

Q. Has he continued in employment through from October 30th [93] on? A. Yes.

Q. Was he ever laid off? A. No.

Q. Then who directed the lay-off in Corvallis?

A. I directed the lay-off in Corvallis.

Q. And did you lay them off yourself?

A. No. Mr. Crockett did.

(Testimony of Wayne R. Giesy.)

Q. Did you advise Mr. Crockett what the reason was for the lay-off?

A. He and I discussed it on the afternoon of the 30th prior to the lay-off.

Q. And what did you advise Mr. Crockett to do?

A. To trim his operation down to the same size of operation that we had at Monroe until such time as we could develop what we were going to operate, and how we would operate it.

Q. You mean, down to the office force?

A. Yes.

Q. And do you have knowledge whether or not he did that?      A. I believe he did.

Q. And then how were the persons hired back at Corvallis plant?

A. Mr. Crockett had the supervision over hiring any employee that was hired back there.

Q. And you don't know what order they were hired back?

A. No. It was left entirely up to him on his preference. [94]

Q. Who is being employed now by the company in the Corvallis plant?

A. Jess Howe, Ralph Jones, and Claude Turner.

Q. Now, of those persons at the Corvallis plant, have you had any conversation with them, either before or after October 30th, 1953, about the union?

A. I think in the last few days Ralph Jones and I have had a conversation regarding the union activities, since we knew that there was going to be a trial.

(Testimony of Wayne R. Giesy.)

\* \* \* \* \*

Q. Now, when did you first learn that it was going to be necessary to make the lay-off of October 30th?

A. On May 31st, of 1953, we closed our fiscal year, and our operation had not been satisfactory profit-wise. At that time, Mr. Burlingham and Mr. Loomis called to my attention our cost ratios of production against profit. Immediately following [95] that, some time I would say in June or July, they instigated the inventory-taking system once each month. Realizing it would be difficult to start during the harvest time, they allowed us to take our first inventory as of September 30th, and, on the records that were developed on September 30th and given to the main office, those were the records we used for the—or that I used for the basis of this lay-off.

Q. Now, when did you learn of those records, and who did you learn them from?

A. I learned them from both Mr. Loomis and Mr. Burlingham, and I learned of them through—periodically from October 1st until the 30th when the final report was given to me.

Q. Now, you state periodically. What do you mean when you say “periodically”?

A. Perhaps every two or three days I would be asked questions about the operation and given information as to how the inventory or the profit statement would show.

Q. When was the last time before October 30th—

(Testimony of Wayne R. Giesy.)

when was the last time that Mr. Burlington contacted you relative to the labor problem?

A. I would say within—with the labor problem?

Q. Yes, within—Mr. Burlingham talked to you about this inventory?

A. Mr. Burlingham I don't think particularly pinpointed it as a labor problem. Mr. Burlingham only mentioned to me my cost [96] ratio between labor and production was not satisfactory. Now, I cannot tell you the particular date, but I would say it was some time in October, at least more than once, and very definitely on the 30th when he had the final report in his hands also.

Q. If I told you that Mr. Burlingham said that he only talked to you 10 days before the lay-off and didn't talk to you after that, what would you say?

A. I would say that Mr. Burlingham is incorrect.

Q. And when was the time that you had a conversation with Mr. Loomis?

A. I would say that I had a conversation with Mr. Loomis periodically from the 1st of October on, about getting the records forward, and I would say that I had a conversation with Mr. Loomis on the 30th day of October and advised to bring all my records to Forest Grove to check every item that they had there.

Q. Isn't it a fact also that you were told as early as the middle of October that the inventory showed that there had to be some kind of a reduction?

A. Yes, I think so.

Q. By Mr. Loomis?

(Testimony of Wayne R. Giesy.)

A. By Mr. Loomis, yes.

Q. And is it also true that, as early as the middle of October, you were advised by Mr. Burlingham the status of your records? [97]

A. I don't think it was specifically pinpointed because the final record to me was not available until October 30th.

Q. But you did learn about the status at least in the middle of October, did you not?

A. I learned that they weren't satisfied particularly with the results that they were showing by the middle of October, but I hadn't learned the final decision as to what the P. and L. showed until October 30th.

Q. Then after you learned in the middle of October that something had to be done, or that your records were in such a state that it would be necessary to make economic corrections, did you advise any of your employees of such?

A. The only one I discussed that with was Dave Crockett.

Q. Now, did you ever make the following statement to Mr. Frank Harrington or to Mr. Don Harrington: Before you'd have the union in the plant, you'd shoot yourself between the eyes?

A. No, sir.

Q. It's your testimony now that you never made that statement to either one of the Harringtons?

A. I'm making that testimony now. I'll go further: I've never made that kind of a statement to anyone.



(Testimony of Wayne R. Giesy.)

Q. Is that your memory?

A. No. That's just positively a fact.

Q. Your memory, as far as that subject goes, is much keener than the conversation—the memory of your conversations?

A. No. I know I wouldn't make that statement to anyone. There would be no occasion for me to make a statement such as that. [99]

\* \* \* \* \*

Q. Now, the regularly hourly paid production and maintenance employees since October 30th, 1953, have had their hourly rate increased to \$1.50 from \$1.20, is that right?      A. Yes.

Q. And they've gone on a 40 hour week?

A. Yes.

Q. Now, what about the status of your salaried employed people? Have their salaries been increased also?

A. Some of them have been increased, yes.

Q. And has Mr. Gann?

A. Mr. Gann wasn't on salary until the middle of January, and that's the first we put him on a salary. [102]

Q. What about Mr. Turner?

A. Mr. Turner's salary has been increased.

Q. And what about Mr. Rudisell?

A. Mr. Rudisell's salary has been increased.

Q. And what about the field man at Monroe?

A. His salary has been increased.

(Testimony of Wayne R. Giesy.)

\* \* \* \* \*

Q. What about Mr. Simons? He's working at Monroe now? [103]

A. Yes.

Q. And what's his job? A. Mixerman.

Q. And when was he first employed?

A. Well, I think on the mixer he was first employed—well, he was employed the date that Ellis Conn's termination was effective.

Q. What did you terminate Mr. Conn for?

A. He did not show up for work.

Q. Is it customary to terminate a man when he doesn't show up for work?

A. Over a period of time. He hadn't shown up for work several times, and we did not wish to get back into those kind of habits.

Q. Did you ask him where he was?

A. We had information that he'd been at the beer parlor the evening before and had a scrap, and that was the information that came to me.

Q. Did you ask him if that was true?

A. I had it verified. [104]

\* \* \* \* \*

Q. Now, do you have an employee by the name of Mr. Savasky, or some such name as that?

A. Zabodsky—Z-a-b-o-d-s-k-y.

Q. And where is he employed?

A. He is now cleaning up the mill of the mess that was made during the month of February. He's rearranging, dumping screens.

Q. He's then in the back? A. Yes.

(Testimony of Wayne R. Giesy.)

Q. Now, in all the years that you've worked there, has that job never been done before?

A. That has been one of my ills that I haven't been willing to start up and keep in effect. We have to keep our operation tidy from now on out, or we just can't operate the mill.

Q. Before hiring him, did you attempt to hire any of the other employees who you had laid off on October 30th?

A. None of the other employees, as far as my judgment was concerned, were capable of taking care of that particular job.

Q. Of cleaning?

A. No; of sorting and rearranging. [105]

\* \* \* \* \*

Q. What particular skill do you have to have to carry out this job of Zabodsky's?

A. Zabodsky at one time had been our foreman in the Monroe plant, and he had quite a bit of experience in that particular type of work.

Q. When had he been the foreman?

A. He had been the foreman probably from 1947 through '49. \* \* \* \* \* [106]

Q. (By Mr. McIntyre): Do you have a Grant Roberts working for you now?

A. I have had a Grant Robbins——

Q. Robbins?

A. ——working for me two Saturdays. I employed him specifically for the reason that he is the son of a high school football coach, who I went to school with, and since is deceased. He's in college,

(Testimony of Wayne R. Giesy.)

and I employed the boy on two Saturdays up to date.

Q. He's not considered as a regular employee?

A. I would say not.

Q. Now, on the two Saturdays that he has worked, what type of work was it that he did?

A. One Saturday, he spent the entire Saturday with the broom just cleaning up. The other Saturday, he did various jobs.

Q. The work that he has done, is it work that is expected and has been done in the past in the ordinary course of your business? [111]

A. Cleaning up has been expected, but it hasn't been done.

Q. But it is work that has been done in the past?

A. It hasn't been done. That's the point that we're making here. It never has been done satisfactorily, the clean-up work.

Q. You mean your company has operated since 1947 and hasn't been cleaned up until that Saturday?

A. No. I said satisfactorily.

Q. Did you ever advise—who was responsible on October 30th of 1953 for the cleaning up in the Corvallis plant?

A. We have discussed that with the men at various times, and it's the most difficult job we have to force the men to do the cleaning up. They have cleaned it up from time to time, and it has been very difficult to execute it so that it would be done as often as is necessary to even meet our insurance requirements.

(Testimony of Wayne R. Giesy.)

Q. Well, who particularly or specifically did you ever talk to about the cleaning up?

A. I have talked to all the men. That's one thing I would take upon my own self. I've talked to all the men about keeping their own units and their own areas clean, and it has not been done to our satisfaction.

Q. Did you ever advise any of the employees that they were not keeping their area clean?

A. Yes, sir.

Q. Now, who?

A. I would go right down the list, every employee that we have [112] there.

Q. Did you ever tell Mr. Jones?

A. Yes, I've talked to Mr. Jones to do sweeping and certain clean-up.

Q. Mr. Howe?                      A. Yes.

Q. Mr. Turner?                      A. Yes.

Q. Mr. Gann? Mr. Cook?                      A. Yes.

Q. Cantrell, Sr., and Jr.?                      A. Yes.

Q. Simons?

A. Not Cantrell, Jr. He's been on the truck most of the time.

Q. Mintonye is on the truck?

A. On the truck.

Q. Tom Cook?                      A. Yes.

Q. Frank and Don Harrington?                      A. Yes.

Q. And it's been rather general?

A. Yes. [113]

\* \* \* \* \*

Q. By the way, Mr. Giesy, how does your pay



(Testimony of Wayne R. Giesy.)

compare now to what it did on October 30th, 1953?

A. We pay the boys \$1.50 an hour.

Q. And what were you paying them then?

A. \$1.20 an hour.

Q. I see. So, you stopped your operation on October 30, 1953, because of economic reasons, but you're now paying them 30 cents an hour more?

A. We don't pay the amount of overtime, Mr. Bailey. We hold it to 40 hours a week.

Q. Have you paid any overtime since October 30th, 1953?

A. The minimum that's been required. I stated for the record some time during the day that occasionally we had a truck driver out that could not get back in at a particular time, and we——

Q. Is it only truck drivers that go over 40 hours?

A. I think so.

Q. You are pretty well aware of what the operation as a whole is?

A. Yes, I would say that it's certainly only on the rarest occasion that it wouldn't be because of the truck that there was overtime paid.

Q. How much would you say you've increased the salaries of your salaried employees since that time?

A. Approximately \$10 to \$15 per month. [117]

\* \* \* \* \*

Q. Have you ever discussed with Mr. Cantrell about re-employment there at your operation?

A. Nothing further than the day he called on Saturday, that we were in a discussion, and I think

(Testimony of Wayne R. Giesy.)

he came in on Monday, and, during that discussion, without knowing just exactly what the word exchanges were, he came back and said he was sorry for some of the things that he had said because he had gotten mad. I can't say what they were. I don't remember. [119]

\* \* \* \* \*

Q. You've never offered him a job back there, have you?      A. No, sir, I have not.

Q. And he's been a skilled man, I think, from the point of your operation, hasn't he? What was his job there?      A. He was a cleaning man.

Q. And you now have Mr. Simons on that job, have you not?

A. No, sir, I have no one on the job.

Q. Who did you employ to go on that job?

A. When we terminated our operation on October 30th, we had less amounts of grain yet to clean than we ever had entering [120] into the winter in both operations.

Q. Have you done any cleaning since October?

A. We have done some cleaning since October.

Q. And who has been doing that?

A. We have done vetch cleaning, some of it, and some grain cleaning at Monroe, and Frank Harrington did that.

Q. Frank Harrington?

A. He was employed to do that.

Q. I see. Was there anything wrong with Mr. Cantrell's work?

A. Mr. Cantrell operated the other side of the

(Testimony of Wayne R. Giesy.)

unit which we haven't opened up to date.

Q. It hasn't operated at all then since October 30th?

A. I would say not over five hours.

Q. The total time in that period?

A. Total time that we have had any employee—  
of our employees on it. [121]

\* \* \* \* \*

Q. Have you ever offered Mr. Sams his job back?  
A. No, sir.

Q. Was there anything wrong with his work?

A. Yes, sir.

Q. On what occasion did you tell him about that?

A. I have one of my cleaning records available with me today to show the difference in the quality of the work, if you desire to look at it.

Q. That isn't an answer to my question. Did you prior to October 30th tell Mr. Sams of any dereliction in his work at the operation?

A. Yes, I brought it to his attention during the harvest time.

Q. Do you recall the date?

A. Oh, I would say along in the middle of harvest.

Q. Was anybody else present?

A. Yes, Mr. Crockett was present.

Q. Mr. Crockett was present? A. Yes.

Q. And what did you tell Mr. Sams?

A. Well, I attempted to instruct him as to how to take rat-tail fescue out of common rye grass.

Q. Well, go on.

(Testimony of Wayne R. Giesy.)

A. And the cleaning record since that time and subsequent seed analyst reports haven't substantiated the fact that he took the correction. [122]

Q. Has it substantiated the fact—it's strictly foreign to me, Mr. Giesy—I don't know this rat-tail problem you're talking about from a locomotive going down the street——

A. Well, I will say this to qualify it: It is very possible to clean it out so that it is satisfactory to sell the seed for the farmer, and, when a poor cleaning job is done, then it means a reduction in the price for the seed to the grower that brings the seed to us, and there isn't a better way to defeat your purpose as a seed cleaner than to do a poor cleaning job, and, if you do enough of them, you can cancel your business because they won't bring it back.

Now, that is the justification from our decision there.

Q. You made that report then to Mr. Sams. You don't recall the date, but some time during harvest?

A. Some time during the harvest, I went to the cleaner and told him what was wrong with the particular lot of seed that he was working on at that time, and I happen to know enough about cleaning how to set that particular machine.

\* \* \* \* \*

#### Cross Examination

Q. (By Mr. Masters): Mr. Giesy, we have discussed various classifications of employees, including that of mixer and grinder, [123] and that of a cleanerman.

(Testimony of Wayne R. Giesy.)

Would you explain the difference between the cleaning operation, and the mixing and grinding operation?

A. The cleaning operation is seed and grain that is brought into the mill that is to be reprocessed and put in 100 pound bags or parcels, that is suitable to sell either in the wholesale channels or retail, and the difference between that and our mixing and grinding operations are that at certain periods during the season we can completely deplete the quantities of seed and grain to be cleaned and put into a market shape, whereas the grinding of feed will continue throughout the season.

Q. Well, then, the cleaning operation has to do with seeds?

A. Cleaning operation has to do with seeds, and it can be seasonal.

Q. Mixing and grinding has to do with feeds?

A. That's right.

Q. In your cost analysis, do you isolate—do you and can you isolate the cleaning operation from the mixing and grinding operation?

A. That isolation would be done at the Forest Grove office.

Q. Is such a cost breakdown made?

A. The only cost breakdown that is submitted to me is my overall figures on what mill earnings are, which would include the amounts earned by cleaning, and grinding and mixing. They would [124] be brought into one total for myself.

Q. Have you since October 30th purchased a



(Testimony of Wayne R. Giesy.)

cleaning machine that results in a reduction of your labor force?

A. We haven't purchased that since October 30th. However, we purchased it during the earlier part of the year, and it has brought about the condition where we have handled some of the grains more rapidly than we did prior. It used to necessitate the use of small cleaners, where the large scalper takes care of it today. It would change the amount of man hours we would have to put on a particular product.

Q. Has your operation since October 30th changed in respect to the proportionate amount of cleaning, seed cleaning, and your mixing and feeds?

A. We had—as I stated a moment ago, we had very little seed yet on hand to reclean and put into a market shape, where, with the mixing and grinding, we have developed it to a little better extent along the wholesale lines and into better marketing areas.

Q. Are you doing more mixing and grinding in relation to cleaning than you were before?

A. Yes, we are.

Q. That results in less sales of seed?

A. That is right.

Q. In other words then, your operation has changed since October 30th in that you're now selling more feed and less seed?

A. That is right. I might add to that that we had such a [125] small quantity to process that we wouldn't have had any substantial quantity during

(Testimony of Wayne R. Giesy.)

the winter months to work on. So, it automatically crossed off the seed cleaning operation.

\* \* \* \* \*

Q. Mr. Crockett was your manager in Monroe?

A. At Corvallis. [126]

Q. Corvallis, and where is Mr. Crockett?

A. He has since deceased.

Q. The person that you had the conversation with on October—you say you talked to Mr. Mumford on October 30th? A. Yes.

Q. That was the day that your employees were discharged? A. Yes.

Q. Since October 30th, has he ever made a statement to you that he did not tell you about any union activity at that time?

A. Yes. Some few days after the lay-off, he came in to the office and made mention that he had never said anything to me regarding any union activities, and he said that in front of witnesses at the time.

Q. Did he later make a different statement than that?

A. A few days later, as I recall, he changed his conversation and said that he had told me.

Q. Would you state how your operation was changed after October 30th, and what respects of your operation changed?

A. We do not do as much retailing of material, or even wholesaling of material that necessitates putting it into 200 pound bags. When you do that, it causes the use of a great deal more machinery and labor. We have large scalping equipment, and we're

(Testimony of Wayne R. Giesy.)

able to put the material into proper condition for selling in 50 ton or more or less bulk box car loads of bulk grain, which automatically makes it more reasonable to handle. [127]

Q. What did Mr. Loomis tell you on October 30th that caused your decision to change your method of operation?

A. Mr. Loomis told me, as of that date, we'd shown a loss for the period from our inventory or our fiscal year close until we took our inventory on September 30th, and it would necessitate some drastic changes.

Q. What was the change—did he mention where the change should be made? In other words, what operation?

A. The only mentions that he made was our cost operations of mill earnings against what our sales of ton volume was.

Q. Your mill earnings, does that refer to the cleaning operation?

A. That refers to the cleaning operation, the earning power of those cleaners.

Q. And that seed that you cleaned at a certain charge to the farmer?

A. To the farmer, and to date it hadn't been sufficient to offset the expenses that were charged against it.

Q. Then at that time you decided to terminate your labor force until you could determine an efficient way to operate?

A. That is actually what took place.

(Testimony of Wayne R. Giesy.)

Q. And since that time, have you made various changes to try to find an efficient operation?

A. For one example, we have operated our mixing crews on a day and a night basis, which enables the production, I would say, of [128] approximately once and a half, rather than working two men together, which gives us more economical production.

In our sales, we have restricted our sales to more cash sales and do less credit business, which doesn't necessitate the amount of 100 pound sacks prepared for sale.

Q. Trading on a cash, rather than credit basis, reduced the volume of sales?

A. Yes, very materially. Only the other day, we had to unload a \$400 order of seed and fertilizer due to the fact that the man didn't have the cash to pay for it, and he had it on his truck before he made arrangements to take it.

Q. When you speak of two men on the machine, do you mean that prior to October 30th you had two men working the day shift on the same machine?

A. On the same machine.

Q. Now, you have one working on one shift, and one another shift?

A. And one another.

Q. You find that's more efficient?

A. We find it has been more efficient, and it gives us more production.

Q. You have testified that you rehired some of the people that you laid off. I believe the Har-

(Testimony of Wayne R. Giesy.)

ringtons were a couple that you rehired, and I'm talking now of some that you rehired, then later fired again. [129]

A. Well, in that particular instance, we hired those boys to try to operate the cleaning facilities of our operation and keep the plant in an orderly fashion. As far as operating the machinery was concerned, they are capable of doing that, but they did not keep the plant in an orderly fashion.

Q. That experiment then of rehiring them and try to work it out, that failed?

A. That failed. So, we discontinued that, and we discontinued all phases of what might have caused that, including taking the foreman from one plant and reducing him from foreman and making him a cleanerman, which he will remain as cleanerman. [130]

\* \* \* \* \*

### CLAUDE SHAFFER

a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

#### Direct Examinaton

Q. (By Mr. McIntyre): Mr. Shaffer, would you state your full name, please?

A. Claude Shaffer.

Q. And your address, sir? [135]

A. Labor Temple, Portland, Oregon.

Q. And, Mr. Shaffer, where are you employed?



(Testimony of Claude Shaffer.)

A. I'm employed by the American Federation of Labor.

Q. And in what capacity are you employed?

A. As an organizer. [136]

\* \* \* \* \*

Q. During the time that—oh, did you make any visit with Mr. Stevens at the Monroe Feed Store in November of 1953?

A. On Monday, November 2nd, yes.

Q. And who did you go there with?

A. I went there with Mr. Stevens.

Q. And did you—where did you go?

A. We went to the Monroe Feed and Seed, and presumably to what was the office.

Q. And it's located in what city?

A. In Monroe, Oregon.

Q. And who all was in the office when you went in?

A. Well, we didn't actually get into the office. There's a little—I guess it's an alleyway. It's in between there, and we met Mr. Giesy there.

Q. Mr. Giesy?            A. Yes.

Q. And was there anyone else in the room at the time?            A. No.

Q. Did you have any conversation at that time with Mr. Giesy?            A. Yes.

Q. How long did the conversation take place? How long did it [137] last?

A. Oh, I would say 10 or 15 minutes.

Q. Would you repeat now what that conversa-

(Testimony of Claude Shaffer.)

tion was? Who started it? What was said? Who said what?

A. Well, I think we started it. Our purpose was to notify Mr. Giesy that we represented a majority of his employees and to ask him to name a time and place for—to negotiate a contract covering their working conditions.

Q. Now, did you tell him that?      A. Yes.

Q. Who told it?

A. I would say we both did.

Q. Well, just what was said, and then what was the answer?

A. Well, as I previously stated, we told him we represented a majority of his employees for collective bargaining, and we'd like to make arrangements for a time and place to negotiate an agreement.

Q. Then what did Mr. Giesy say?

A. Mr. Giesy told us that as of the previous Friday night he had no employees, and, therefore, we had no problem.

Q. And what else was said?

A. Well, then, we asked him who his attorneys were, and he told us it was Governor Patterson and associates.

Q. And then what did you tell him? Was there anything else to it? [138]

A. That was the main part of the conversation.

Q. Well, when you first went in there, was it necessary for you to advise Mr. Giesy who you were?

(Testimony of Claude Shaffer.)

A. I do not know that, but we did.

Q. And that was what the conversation was?

A. Yes.

\* \* \* \* \*

### Cross Examination

Q. (By Mr. Masters): Did you say that on November 2nd you knew the employees had been laid off the Friday before? A. Yes. [139]

\* \* \* \* \*

### AUSTIN LEE STEVENS

a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

### Direct Examination

Q. (By Mr. McIntyre): Mr. Stevens, would you state your full name, please?

A. Austin Lee Stevens.

Q. And your address, sir?

A. 310 Southwest Columbia Street, Portland, Oregon.

Q. And where are you employed, Mr. Stevens?

A. American Federation of Grain Millers, Local 61.

Q. In what capacity are you employed?

A. Executive Secretary.

Q. In your job, just what are the duties of your job?

A. Well, it's dues collections, organizing, processing grievances, doing negotiations.

(Testimony of Austin Lee Stevens.)

Q. The general duties of——

A. Business Agent.

Q. Business Agent? [141]

A. That's right.

Q. In your duties, do you cover the area of Monroe and Corvallis, Oregon?

A. We are chartered to go as far south as Eugene.

Q. Now, any time in 1953, did you have occasion to visit Monroe or Corvallis, Oregon, for the purpose of organizing the——

A. We did.

Q. ——the Monroe Feed employees?

A. We did.

Q. When did you first undertake that organization?

A. We received inquiries from Monroe—well, when we first tried it? [142]

\* \* \* \* \*

Q. (By Mr. McIntyre): Who first contacted you?      A. Webster Sams.

Q. As a result of him contacting you, did you have a meeting?      A. Yes.

Q. Where was the meeting held?

A. At Webster Sams' house.

Q. And is that in Bellfountain?

A. That's in Bellfountain.

Q. What day was it held?

A. October the 27th.

Q. What time of day?      A. 8 o'clock.

Q. Who attended? [143]

(Testimony of Austin Lee Stevens.)

A. There were six employees, Ralph Jones, Frank Harrison, Webster Sams, Jess Howe, Ray Joyner, and Kenneth Mumford.

Q. Now, did you have them sign authorization cards for your union at that time? A. I did.

Q. Did all of them sign? A. Yes.

Q. All that were attending? A. Right.

Q. Were any steps taken to have the remaining employees sign those cards?

A. There was.

Q. And what steps were taken?

A. We sent cards back by the employees.

Q. By what employees?

A. It was either Ralph Jones or Jess Howe took one or two back to Corvallis, and Frank Harrington took the balance to Monroe.

Q. And were those cards then executed and returned to you? A. They were.

Q. And as of October 28th, 1953, at 4 o'clock in the afternoon, how many of the company's employees did you have signed up in the union?

A. Twelve.

Q. Twelve, and how many employees were there at that time? [144]

A. Thirteen—thirteen within our understanding. One of them, we understood, was in the hospital and we were unable to contact him.

Q. And that was 12 employees of what has been set out in the complaint as an appropriate unit for collective bargaining? A. That is right.

Q. As a result of having these cards signed on



(Testimony of Austin Lee Stevens.)

October 28th, what was the next thing that you heard about the—or that you learned about the status of the employees?

A. It was either late Friday night of October the 30th or early Saturday morning, I received a call from—I think it was Webster Sams' house—now, whether there was more than one there that morning, I don't know, but I received a call that they had all been discharged Friday night.

Q. And what steps did you take then?

A. Previously—well, at that time—well, immediately on Monday morning, I went before the National Labor Relations Board and filed an unfair labor charge, and immediately then drove from there—from Portland to Monroe, to Webster Sams' house, and met with the employees, and then went to see Mr. Giesy at Monroe.

Q. Now, who was with you when you went over to see Mr. Giesy?      A. Claude Shaffer.

Q. And what time of day was that?

A. It was in the afternoon, along in the [145] middle of the afternoon.

Q. And where did it take place?

A. Well, where you go through on the front porch and up the stairway, there's an office on one side that's got—I don't know whether there's a door on it or not, but there's a partition and a door coming in—I guess it would be the north side—and there's an alleyway about so wide, and a counter on one side with a doorway in it, and Mr. Giesy was standing in the doorway. I was standing on

(Testimony of Austin Lee Stevens.)

one side of the counter. Mr. Shaffer was on the other.

Q. And was there any conversation?

A. Yes.

Q. And what was that conversation?

A. I asked Mr. — I told Mr. Giesy that we represented a majority of his people for the purpose of negotiating a contract and wanted to set a time and place to sit down and talk.

Q. And what did Mr. Giesy say?

A. He said, "As of Friday night, I have no employees. So we have no problem."

Q. Was anything else said?

A. Yes, we said, "Well, do you realize that's an unfair labor charge to discharge employees at this time?" And he said, "Well, I didn't do it for that. I did it because I got orders from the auditors" or something, and that ended that. [146]

\* \* \* \* \*

Q. Now, from October 28th at 4 o'clock, at the time that you had all the employees signed up, with the exception of the one who was in the hospital, to have your union bargain for them, has any of those employees ever advised you that they wished to withdraw?

A. Not me personally, no. [147]

\* \* \* \* \*

### Cross Examination

Q. (By Mr. Masters): And that meeting of October 27th was the first organizational meeting you held down here in '53?

(Testimony of Austin Lee Stevens.)

A. That is right. [150]

\* \* \* \* \*

Q. And you talked to Harrington on the 2nd?

A. That's right.

\* \* \* \* \*

Q. Then you said you talked to Mr. Sams on the telephone?

A. That's correct.

\* \* \* \* \*

Q. And he told you about the discharge?

A. That was either Friday night—late Friday night or early Saturday.

Q. Will you tell exactly what the conversation was as well as you remember it?

A. Well, the main conversation was that he said, "Well, we all [151] got laid off at quitting time tonight" or Friday night, and I says, "For what reason? What did they give you?"

He says, "Oh, just something about economics."

\* \* \* \* \*

#### KENNETH MELVIN MUMFORD

a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

#### Direct Examination

Q. (By Mr. McIntyre): Would you state your full name, please?

A. Kenneth Melvin Mumford.

Q. And what is your address, sir?

A. Monroe, Box 26.

(Testimony of Kenneth Melvin Mumford.)

Q. Have you been employed by Monroe Feed Store? A. Yes.

Q. When were you first employed there? [153]

A. September 6th, 1950—no —

Trial Examiner: What is the answer?

The Witness: '49.

Q. (By Mr. McIntrye): '49, September?

A. Yes.

Q. And in what location were you employed?

A. Well, the first that I done was worked on the cleaner.

Q. Well, were you employed in Corvallis or Monroe? A. Monroe. [154]

\* \* \* \* \*

Q. Were you employed by Monroe Feed Store in October of 1953? A. Yes, I was.

Q. And were you employed on October 30th of 1953? A. Yes.

Q. At that time, was your employment terminated on October 30th, 1953? A. Yes.

Q. Was your employment terminated?

A. I was laid off.

Q. And who laid you off?

A. Well, Giesy, I guess.

Q. He was the one that gave you the check?

A. Yes.

Q. Now, are you a member of any labor organization? A. Yes.

Q. What organization is that?

A. A. F. of L.

Q. Is that the Grain Millers? [156]

(Testimony of Kenneth Melvin Mumford.)

A. Yes.

Q. The union in this case?      A. Yes.

Q. And when did you join?

A. The 27th of October.

Q. And where were you when you joined that?

A. Webster Sams' house.

Q. Have you continued as a member of the union since that time?      A. Yes.

Q. Now, do you recall the afternoon of the day you were laid off?      A. Well —

Q. First of all, do you recall the afternoon of the day you were laid off?      A. Yes.

Q. And that afternoon did you have any conversation with Mr. Giesy?      A. Yeah.

Q. Where did that conversation take place?

A. In the office.

Q. And who was present?      A. Giesy.

Q. You and Mr. Giesy?      A. Yes.

Q. Was anyone else there? [157]

A. Not that I recall.

Q. And what time of day was it?

A. Oh, it was about 1 o'clock.

Q. About 1 o'clock in the afternoon?

A. Mum-hmm.

Q. And would you repeat what the conversation was that you had with Mr. Giesy at that time? First of all, what were you doing in the office?

A. Well, I went in after some feed for chickens I had up at the house, and Giesy, he asked me who all was out at the union.

Q. Who all was where?



(Testimony of Kenneth Melvin Mumford.)

A. Who all was out at the union meeting, and he—I said, yes, that I was there, and that we'd all signed union cards.

Q. Did he say anything else?

A. He said, "Is that what the men want?" and I said, "I guess so", and that was——

Q. Did he say anything else then?

A. No, I don't believe he did.

Q. Now, specifically, what was it that was said? You went in there to get some seed?      A. Feed.

Q. Feed?      A. Mum-hmm.

Q. And who brought up the conversation of the union?

A. Well, Giesy spoke first. I was purchasing a sack of feed, [158] and he asked me what—while I was getting the sack of feed about it.

Q. Yes, go ahead. What was it that he said?

A. Well, he asked me who all was out to the meeting.

Q. Yes.

A. And I said that I was, and that we'd all signed union cards.

Q. What else? Anything else said?

A. Well, I said that it didn't make any difference, that we'd all signed.

Q. Did he say anything then?

A. Well, that's when he said, "Is that what the boys want?" and I said, "I guess so," and I went out. [159]

(Testimony of Kenneth Melvin Mumford.)

\* \* \* \* \*

Q. Now, has Mr. Giesy ever notified you to come back to work since October 30th of 1953?

A. No, he hasn't.

Q. Did he ever give you any reason—did he give any reason to you why you were not being hired back?      A. No.

Q. Now, during the time you worked there under Mr. Turner or Mr. Giesy, did either one of those men ever tell you that your work was unsatisfactory?      A. Not that I can recall.

Q. So then, since October 30th of 1953, you have not worked for Monroe Feed?      A. No.

Q. Have you made any attempts to go back to work with them?

A. Well, I was in one time, and I asked him—I asked Mr. Giesy if there was any work available, that I could do.

Q. And when was that?

A. Well, I think that was about two or three weeks later. [160]

\* \* \* \* \*

### Cross Examination

Q. (By Mr. Masters): Where are you working now, Mr. Mumford?      A. I'm not working.

Q. When you went back and asked for work again, did Mr. Giesy tell you that he didn't have any work available at that time?

A. I think he did.

Q. And did you talk to him about the unfair labor charge at that time?

(Testimony of Kenneth Melvin Mumford.)

A. Not that I can—not that I can recall.

Q. It was earlier that you talked to him about that?

A. It was the day I was laid off, that is, I mentioned before there.

Q. Well, you mentioned something about the size of the thing you signed, the length of it, I believe, in your conversation with Mr. Giesy. Do you recall that?

A. You mean the statement that I signed?

Q. Yes.

A. No, I don't believe—I don't believe I did.

Q. Did Mr. Giesy ever ask you if you signed a charge against him?      A. Yes.

Q. And you told him you had?      A. Yes.

Q. And did you tell him that anyone else had, in addition to you? [162]      A. No.

Q. What was it that you signed? Do you recall?

A. It was my statement.

Q. Who wrote the statement for you?

A. I forget what his name is.

Q. Do you recall what it said?

A. Well, it read as what I just testified to, with the union lawyer there.

Q. Pardon?

A. It read as I testified to the union lawyer there.

Q. It read as you testified that what? I couldn't hear.

A. To the union—labor—or the official over there.

(Testimony of Kenneth Melvin Mumford.)

Q. Who? Which official?

A. Oh, I forget—yeah—I don't know his name.

Q. Now, you said that you talked about this charge, but it wasn't when you came in to look for work; it was another time. Is that correct?

A. It might have been, yes.

Q. It might have been another time, or it might have been when you asked for a job?

A. It wasn't at the time I asked for the work.

Q. It was a different time?      A. Yeah.

Q. So, you saw him on October 30th, and you saw him when you asked for your job back, and then you saw him at some time in [163] between then?

A. No.

Q. When was it, do you remember?

A. It must have been later.

Q. Why do you say it must have been later?

A. He come up to my house once and was talking to me.

Q. Pardon?

A. He come up to my house once and was talking to me once. I don't know whether there was any mention about it then or not.

Q. When was that?

A. Well, let's see. That was in November, I believe.

Q. What did he talk to you about then?

A. Well, he—I don't recall much about that just offhand.

Q. Did you ever sign a statement, an affidavit, or anything in connection with this case?

(Testimony of Kenneth Melvin Mumford.)

Mr. McIntyre: Objection.

Trial Examiner: Well, what is the basis of the objection?

Mr. McIntyre: I don't see the materiality. He's here to testify as to what took place.

Trial Examiner: All right, I'll sustain the objection—no, I'm not. I'm going to overrule the objection. You may answer that. Did you sign a statement?

The Witness: No, I didn't.

Q. (By Mr. Masters): Well, Mr. Mumford, you said you signed something. What was it, do you know? You said Mr. Stevens—— [164]

A. Other than the one that I signed there that I testified on.

Q. You said that was something that Mr. Stevens gave you, is that correct?

A. No, it wasn't Stevens.

Q. Who gave it to you then, the thing you signed?

A. It was——

Mr. McIntyre: Was it Mr. Hedges?

The Witness: Hedges.

Mr. McIntyre: Let the record show that Mr. Hedges is a field examiner for the National Labor Relations Board.

Q. (By Mr. Masters): Was that down here in Monroe or in Portland?

A. Yeah, that was in my house.

Q. You say—what date was it that you signed that that Mr. Hedges gave you?



(Testimony of Kenneth Melvin Mumford.)

A. I wouldn't know offhand.

Q. Who wrote it out?      A. Mr. Hedges.

Q. Now, you said it was a charge, and it wasn't a statement. Do you know what it was? I mean you say it was what you testified to here. In other words, it was testimony like you repeated here?

A. I suppose it would be a statement against the charges.

Mr. McIntyre: Mr. Mumford, you're a little nervous, aren't you? Have you ever had occasion to testify in a court before? [165]

The Witness: No, I haven't.

Mr. Masters: Mr. Examiner, I wasn't through. I wonder if you have that charge or that statement that he signed here.

Q. (By Mr. Masters): Are you certain of the dates, Mr. Mumford, that you talked to Mr. Giesy about getting hired again?      A. Well, I——

Q. You testified it was two or three weeks later.

A. No.

Q. And I believe you said in another statement that it was two days later. Are you certain of that date that you talked to Mr. Giesy about your job?

A. No, I'm not.

Q. It could have been the following Wednesday after your discharge?

A. Well, it could have been. I don't just recall what day it was.

Q. Isn't it possible that that was the Wednesday you told him about signing the cards, instead of a Friday?      A. No.

(Testimony of Kenneth Melvin Mumford.)

Q. Have you signed more than one statement?

A. No.

Q. Didn't you sign a second statement along with all the rest of the employees, a one page statement?

A. Yeah, I believe I did sign when I went out to Sams' place at a union meeting. I don't recall what it was about. [166]

Q. I didn't hear what you said this time, Mr. Mumford. Did you say that you didn't know what the statement was you signed, the one you last mentioned?

A. I don't recall what it was about at this particular time. [167]

\* \* \* \* \*

#### Recross Examination

Q. (By Mr. Masters): That time when you went back to ask Mr. Giesy for work, wasn't that the Wednesday following your discharge, rather than two or three weeks later?

A. Well, I think it was.

\* \* \* \* \*

#### WEBSTER SAMS

a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

#### Direct Examination

Q. (By Mr. McIntyre): Mr. Sams, would you state your full name for the record, please?

A. Webster Sams.

Q. And, Mr. Sams, where do you live?

(Testimony of Webster Sams.)

A. Bellfountain, Oregon.

Q. How long have you resided at that address?

A. Since the 16th of July of '52. [170]

Q. Were you ever employed by the Monroe Seed Company—Feed Company?

A. From that date until October of '53.

Q. Which location did you work in?

A. I worked at both of them. I hired out at Corvallis plant.

Q. You hired out at the Corvallis plant?

A. That's right.

Q. How long did you work there?

A. Well, I worked there till after Christmas, and then I went up to Monroe.

Q. After Christmas of——      A. 1952.

Q. 1952?      A. Yes.

Q. And then went up to Monroe?      A. Yes.

Q. How long after Christmas?

A. Oh, it was after New Year's, I believe.

Q. And did you work continuously then up till the time of your termination in October?

A. No. I came back to Corvallis in the fall when the harvest started.

Q. At harvest?      A. Yes.

Q. And how long did you remain back in Corvallis? [171]      A. Until we were laid off.

Q. And you were laid off on October 30th of 1953?      A. October 30th, yes. [172]

\* \* \* \* \*

Q. You've heard all this testimony, haven't you, here today?      A. Yes.

(Testimony of Webster Sams.)

Q. Was there a meeting held at your house?

A. Yes.

Q. When was it held?

A. It was held the 28th of October.

Q. And what was the day? Do you recall the day of the week?

A. It was Tuesday.

Q. Tuesday?

A. Yes.

Q. And do you recall who attended the meeting?

A. Yes.

Q. Were they employees of the Monroe Feed Company?

A. Yes, they was.

Q. Who all attended?

A. Well, there was myself, Kenneth Mumford, Frank Harrington, and Jess Howe, and Jones.

Q. And did Mr. Stevens of the Grain Millers address you at that time?

A. Yes. [173]

Q. Did all of you sign authorization cards?

A. That's right.

Q. And were arrangements made to have the other employees sign cards?

A. That's right.

Q. Now, Mr. Sams, after this meeting in your house, let's see—then you were terminated?

A. That's right.

Q. Who terminated you?

A. Crockett. \* \* \* \* \* [174]

Q. And did you meet Mr. Crockett?

A. Yes, sir.

Q. Have any conversation with him?

A. Yes.

Q. And what did you ask him? What was the conversation?

(Testimony of Webster Sams.)

A. I asked him what was the reason I got laid off. He said he didn't know. He supposed it was just due to the overhead, and that was his orders, and he just couldn't help it. [175]

\* \* \* \* \*

Q. About a month or better after you were laid off?

A. To the best of my recollection, yes.

Q. Did Mr. Giesy come out to your house?

A. Yes. \* \* \* \* \*

Q. And did Mr. Giesy advise you what his business was? Did he talk to you?

A. Oh, he talked to me some, but he said his books was audited and the bank notified him that he was behind and just to shut her down. [176]

\* \* \* \* \*

Q. Now, up till that time, had any of the supervisors, either at Corvallis or at Monroe, ever told you that your work was dissatisfactory?

A. Not a word, no, sir.

Q. Did they ever tell you that your work was satisfactory?      A. Yes.

\* \* \* \* \*

Q. Now, how long have you been cleaning seed?

A. I've got 10 years.

Q. Ten years experience at cleaning seed?

A. Yes.

Q. Then you had cleaned it at other locations, other than at [177] Monroe?

A. I worked just about seven years for Centen-



(Testimony of Webster Sams.)

nial, and I worked about a year and a half for Buchanan-Cellars. [178]

\* \* \* \* \*

Q. Now, I believe it was testified that Mr.—no—strike that.

After the meeting in your house, or any time immediately prior to the meeting in your office, did you have any conversation with Mr. David Crockett about that meeting?

A. Yes, the next morning.

Q. The following morning?

A. The following morning.

Q. And where was that conversation?

A. In the office.

Q. In the office? A. Yeah.

Q. How did you happen to be in the office? [181]

A. Well, I was called in.

Q. You were called in?

A. I was called in.

Q. Who called you in? A. Dave.

Q. Mr. Crockett? A. Crockett.

Q. And when you went in, did he advise you why he notified you to come in?

A. No. He just kind of—Mr. Crockett was kind of a humorous feller, and he said to me, he said he heard of the meeting at Bellfountain last night, and I said, “Oh, is that right?” And he said, “Yes”, he said he’d heard it at the depot, and I just figured he was kind of throwing bricks at me, and he was talking along there, and he said, “Did you go?” and I said, “No, I didn’t go.”

(Testimony of Webster Sams.)

Well, he said, "Did you hear of the meeting?" And I said, "Well, I didn't hear of an outside meeting, but we had a meeting in our place, at my place." He said, "Did you have a union in there?" And I said, "Yes, we had a union in there." [182]

\* \* \* \* \*

Q. (By Mr. Bailey): I believe you stated, Mr. Sams, that this meeting was held on the 28th, but it was on a Tuesday?      A. Yeah.

Q. Now, do you recall, if I were to advise you, that the 27th of October was a Tuesday, would that have been the date, or would it have been Wednesday, the 28th, on which this meeting was held at your place?

A. I believe you're correct.

Q. Which would it be?

A. Tuesday would be before Wednesday. Wednesday would be the 28th.

Q. You're sure it would have been on the 27th?

A. Yes. [183]

\* \* \* \* \*

### ALEC JOHNSON

a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

#### Direct Examination

Q. (By Mr. McIntyre): Would you state your full name for the record?

A. Alec Johnson.

(Testimony of Alec Johnson.)

Q. Please speak right up so they can hear you, Mr. Johnson. What is your address?

A. Monroe, Box 62.

Q. Were you ever employed by Monroe Feed Store?

A. Yes, sir.

Q. When were you first employed there?

A. Let's see. I believe it was along towards the last of July or the first of August.

Q. Of 1953?

A. Yes.

Q. And how long did you continue in their employment?

A. Up to the 30th of October. [194]

\* \* \* \* \*

Q. During the time that you were employed at Monroe Feed Store, were you a member of any union?

A. I joined the union — this union — about the 28th day of October.

Q. You're referring to "this union" as the Grain Millers that is involved in this case?

A. Yes.

Q. Now, are you still a member?

A. Yes.

Q. You remained a member from the time you joined until now?

A. Yes, sir. [195]

\* \* \* \* \*

Q. Now, you didn't attend a meeting at Webster Sams' house?

A. No, sir.

Q. But you signed a card the following day?

A. Yes, sir.

Q. Who gave you the card?

A. Frank.

Q. Frank who?

A. Harrington.

(Testimony of Alec Johnson.)

Q. One of the employees of the company?

A. Correct.

Q. Now, was your job, during the time that you were there, was your job a permanent full time job?

A. Well, when I was hauling, they wouldn't say would I stay or do harvest, but about a week before I was laid off I asked Claude Turner.

Q. He was the foreman?

A. Yes, and he told me they'd keep me on steady.

Q. That was the week before you were laid off?

A. I was laid off after.

Q. Now, did you ever have any conversation with any of the management relative to unions?

A. Not with Mr. Giesy, no.

Q. Well, did you ever have any with Mr. Turner?

A. Yeah, one night. Well, I'd say it was about a month or a [196] month and a half before I was laid off.

Q. Where did you have that conversation?

A. At Junction—Safeway, Junction—Safeway Store.

Q. Junction City?      A. Mm-hmm.

Q. What time of night was it?

A. Well, I'd say it was around 7:00 or 7:30.

Q. What was the conversation?

A. Well, I asked Mr. Turner—I told him, I said, "What we need over at the mill is a union."

Q. What did he say?

A. He said, no, he couldn't work the hours he

(Testimony of Alec Johnson.)

was working and make the money he was making if we had a union.

Q. What did you say then?

A. I told him, well, I didn't see why. He said if Mr. Giesy would find it out, he'd can everyone who joined the union, the words he told me. [197]

\* \* \* \* \*

FRANK HARRINGTON

a witness called by and on behalf of the Charging Party, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Bailey): Would you give your name and address, please?

A. Frank Harrington, General Delivery, Monroe, Oregon.

Q. Now, were you an employee of the Monroe Feed Store in the past? A. I was.

Q. When were you first employed there?

A. Well, it was about in March of '52.

Q. And how long have you worked for them?

A. Well, it would be two years this coming March.

Q. What job did you have when you were first employed?

A. Well, I went to work there as a cleanerman.

Q. And did you keep that same job while you were working there?

A. Yes, that was my regular job. [201]



(Testimony of Frank Harrington.)

Q. Now, Mr. Harrington, you have been in this room during these sessions, have you not?

A. I have.

Q. Have you heard the reference made to a meeting at Webster Sams' house on October 27th?

A. That's right.

Q. 1953?                      A. Yes.

Q. Were you present at that meeting?

A. I was.

Q. Did you become a member of the union?

A. I did.

Q. When did you do that?

A. October 27th.

Q. Now, what union is that?

A. American Federation of Grain Millers, Local 61, A. F. of L.

Q. Now, subsequent to the meeting at Webster Sams' house on October 27th, did you do anything on behalf of the union?

A. You mean before?

Q. I mean after that meeting at Webster Sams' did you assist the union in any way?

A. I did.

Q. What did you do?

A. Well, I took agreement cards to the men that wasn't at the meeting that night. [202]

Q. What did you do with those cards?

A. On the 28th, I took them up to the mill, had everybody sign that hadn't signed.

Q. Did you get all the signatures of those who had not previously signed?

(Testimony of Frank Harrington.)

A. All except one. I think he was in the hospital at that time.

Q. And what plant was this?

A. I was at Monroe.

Q. Those were at the Monroe plant?

A. Yes.

Q. What did you do with those cards then afterwards?

A. Put them in an envelope and sent them to Mr. Stevens.

Q. When did you send those to Mr. Stevens?

A. I can't pinpoint the exact time, but it was between 1 o'clock and 3 o'clock when I mailed the envelope.

Q. And what day?           A. On October 28th.

Q. Now, Mr. Harrington, between October 27th, the date of the meeting at Webster Sams' house, and October 30th, did you have any conversations whatsoever with any of the supervisors of the Monroe Feed Store?           A. I did.

Q. Who did you talk to?

A. Claude Turner, the foreman. [203]

Q. Now, where did this conversation take place?

A. In the mill at Monroe.

Q. And do you recall the date?

A. It was October 30th.

Q. About what time, do you recall?

A. Well, I couldn't pinpoint the exact hour, but it was in the afternoon.

Q. You mean after lunch?           A. After lunch.

(Testimony of Frank Harrington.)

Q. Was anybody else present, besides you and Mr. Turner?

A. No, no one else was there.

Q. You said this conversation took place in the mill. Can you pinpoint where it was, what place?

A. Yes, sir.

Q. Where?

A. At the south door, right by my cleaner.

Q. This was by your place of operation?

A. That's right.

Q. Do you recall the exact words of the discussion at that time?

A. I believe I can recall the exact words of that conversation, yes.

Q. Would you repeat those, please? What you said to Mr. Turner, and what he said to you, and so forth?

A. All right. He came back to the cleaner where I was, and [204] he said, "I see Dave Crockett's at the office", and I said, "What do you suppose he's there for?" He said, "Well, I only caught a little of it, but," he said, "I think someone is trying to get a union in the mill", and I said, "Well, what do you suppose will happen?"

He said, "Well, Wayne will just find out who started it, and he'll fire him." He said, "That's what happened the other time."

Q. Now, this is a statement made by Mr. Turner to you?      A. That's right.

Q. Did you make any comment to that?

A. Well, no, I didn't make any comment to that.

(Testimony of Frank Harrington.)

He said, "Besides, it has to be 51 per cent before the union can do anything anyway", and I told him, well, I said, "We don't have to worry about that. We're 100 per cent, both mills."

\* \* \* \* \*

Q. Were you laid off on October 30th, along with everybody else?      A. I was.

Q. And was this—did this occasion happen about 6 o'clock?      A. It did. [205]

Q. Where did this lay-off take place?

A. In the office of the Monroe Feed Store.

Q. Could you explain what happened there? Were any statements made to you at that time by Mr. Giesy when you were laid off as to the reason for the lay-off of that nature?

A. Yes, there was.

Q. What did he say?

A. He said his auditors had informed him that day that he was behind, and he was going to have to make some changes and he just had to lay us all off, and I asked him again, and he said, well, the outgo is more than his income was; therefore, he couldn't use us boys any longer.

Q. Now, after your lay-off of October 30th, did you again discuss employment with the company?

A. Yes.

Q. Who did you talk to?

A. I talked to Claude Turner.

Q. When was this?

A. I couldn't pinpoint the exact date.

Q. Approximately at what date?

(Testimony of Frank Harrington.)

A. Well, I'd say it was about three, maybe four weeks after I was laid off.

Q. And what was said there?

A. I asked when he thought Wayne would put us all back to work, and he said he didn't think that he would. He said he thought [206] that Wayne was going to start wholesale and retail of feed and seed and not clean any more seed.

Q. Now, were you subsequently rehired by the Monroe Feed Store?      A. I was.

Q. When were you rehired?

A. About January the 8th, I think it was.

\* \* \* \* \*

Q. After your employment of January 8th, Mr. Harrington, did you discuss the union at any time with Mr. Giesy or any other supervisor?

A. The union was brought into the conversation at one time.

Q. When was that?

A. Well, it was about February the 8th, to the best I can remember. [207]

\* \* \* \* \*

Q. What was said, if you can recall the conversation—the conversation between yourself and Mr. Giesy?

A. I'll do my best. I went into the office, to the inner office, and asked Wayne if he would come out, I'd like to talk to him. He come out into the outer office——

Q. If I may stop you a moment, I think you said your brother, Don Harrington, was present?



(Testimony of Frank Harrington.)

A. Absolutely.

Q. Was there anybody else present?

A. I don't recall anyone else being present.

Q. All right. Now, then, Mr. Giesy came out to the outer office. What was said?

A. I asked Wayne why he was holding our checks and why he wouldn't give us our checks, the same as anybody else, and I also explained to him that we never had a chance to pay him before if he held our checks, but he always held them first, or that Maurie Beals had always held them first and asked for the money before we ever got the checks.

Q. Yes.

A. And he said that there had been a mistake, that he didn't tell Maurie Beals in those exact words. He told Maurie Beals, he said to tell Don and I to wait and see him. So, he asked me if I didn't think it was fair for us to pay some of our bills each week. I told him absolutely, yes, but I asked him, hadn't we been paying on them each week, and he said yes, but he would [210] like for us to pay a little bit more for the next two weeks, and, after the next two weeks, the third week that we could skip a week, and then after that we could resume our weekly payments, and we agreed to that, and I asked him if he'd go and get the books and see how much I owed him.

He said, "Yes", and he started back to get the books, and my brother, Don, said yes, he wanted him to get the books and figure out how much he owed him because he wanted to pay him off. Then he

(Testimony of Frank Harrington.)

could lay him off tomorrow if he wanted to, and Wayne was going after the books at that time and he whirled back around and said, "Now, listen, young man", and started shaking his finger under his face.

Mr. Giesy—my brother pushed his hand down and told him not to shake his finger in his face any more, and Wayne said, "I will if I want to", and Don said, "Step outside and you won't", and then Wayne said, "No, we don't want to have any kind of trouble like that", and Don asked him then if he thought he had done as much work in that mill as anybody had and worked as hard, and Wayne agreed with him.

So, Wayne said there's some of the men that hadn't done all that they could do there, and he said, "I'm going to have to put some of these men back to work, and I'm going to lose money by it, but," he said, "before I go union, I'll shoot myself right between the eyes." [211]

\* \* \* \* \*

Q. Well, now, Mr. Harrington, you were in the court room yesterday when statements were made relative to the reasons for your lay-off—your and Don Harrington's discharge in March of this year.

Do you recall that the statement was made that you were laid off because you had taken so long to take inventory?      A. Yes, sir. [212]

\* \* \* \* \*

Q. Did you have any instructions relative to keeping the area around your operation clean?

(Testimony of Frank Harrington.)

A. Yes, we all knew to keep it clean.

Q. What kind of instructions were you given personally?

A. Well, I can't recall just exactly the words that was used, but we've all—or I myself at some or other, I can recall being told that we should keep the place clean. We all knew that. We didn't have to be told. [214]

\* \* \* \* \*

DON HARRINGTON

a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. McIntyre): Would you state your full name, please? A. Don Harrington.

Q. And your address, sir?

A. Monroe, Oregon. [217]

Q. And have you ever been employed by Monroe Feed Store? A. Yes, sir, I have.

Q. When were you first employed?

A. July, '52.

\* \* \* \* \*

Q. Now, during your employment at Monroe Feed Store, were you a member of any union?

A. Not until October 28th.

Q. October 28th? A. 1953.

Q. And what—then did you become a member of a union? [218]

(Testimony of Don Harrington.)

A. Yes, I signed a card.

Q. What union was that?

A. A. F. of L., Grain Millers Association.

Q. And that's the same local union that is involved in this proceeding?      A. 61.

Q. And where did you join that?

A. At the feed store.

Q. The feed store. Was that the day after the meeting in——

A. It was the day after the meeting.

Q. Are you still a member?      A. I am.

Q. Now, were you laid off on October 30th, 1953, with the other employees?      A. I was.

Q. And at that time, did—who was it that laid you off?      A. Mr. Giesy.

Q. And what reason did he give?

A. He said that his income was lower than his outgo—or his—yeah—and he had to lay us off until he could make other arrangements to produce more income.

Q. Now, were you ever re-employed by the company?      A. Yes. [219]

\* \* \* \* \*

Q. Now, did you hear the testimony of your brother here relative to the conversation on March the—I mean, on February 8th in Mr. Wayne Giesy's office?      A. I did.

Q. Were you present?      A. I was. [220]

\* \* \* \* \*

Q. (By Mr. McIntyre): Would you repeat the

(Testimony of Don Harrington.)

conversation that you and your brother had with Mr. Giesy after he arrived back?

A. Well, he came into the outer office. My brother, Frank, asked him to, and Frank asked him what was the reason for not signing our checks. So, he said, well, there was a mistake on Maurie's part. He said that he didn't mean it like that. He said he just wanted to talk to us boys before he signed our checks, and said that he wanted to get us to pay more on our bills, and so Frank asked hadn't we been paying on our bill, and he said, yes, but, he said, he wanted a little bit more, and so he said, "Pay \$15 this week, and \$15 the next one or two proceeding weeks", and then we could resume back down to our [221] regular payments, and so we agreed to it.

Frank asked him to get the books. He said he wanted to check and see what he owed. I told him I wanted to get what I owed him too, that I wanted to figure up and pay him what I owed him, and then he could lay me off the next day if he was just working me for what I owed him.

Then Wayne turned back around and began to shake his finger in my face, and I told him not to be doing that, and he said he'd shake his finger in my face when he got ready to, and I told him to step outside, and he wouldn't do it any more. He says, "No, we don't want to have no trouble like that." Then he got his books and showed us where, if he was working us for what we owed him, that he would be working other fellows that owed him a lot more



(Testimony of Don Harrington.)

than what we owed him, and he said that we was good hands, and he said—I told him, I said, “Well, we have worked as hard here for you as any man you have or ever have had.”

He said, “I agree with you.” He said, “You have.” Then he says, “I’m going to have to put some men back to work here.” He says, “And when I do, I’m going to lose money by it, but,” he says, “before I go union, I’ll shoot myself between the eyes.”

\* \* \* \* \*

Q. Now, have you ever, during the time that you were employed [222] there, did you ever have any instructions about keeping the area where you worked clean?

A. Yes; yes, we—I’ve had instructions.

Q. Who gave you those instructions?

A. Claude Turner. [223]

\* \* \* \* \*

### FLOYD CANTRELL, SR.

a witness called by and on behalf of the Charging Party, being first duly sworn, was examined and testified as follows:

#### Direct Examination

Q. (By Mr. Bailey): Would you state your name and address, [226] please?

A. Floyd Cantrell, Junction City, Route 3.

Q. And have you been an employee of Monroe Feed Store?      A. Yes.

(Testimony of Floyd Cantrell, Sr.)

Q. How long have you been employed there, or had been employed there?

A. Oh, I suppose I had been there for eight years, maybe a little better.

Q. Had you been there longer than any other employee of the company? A. Yes.

Q. What was your job there?

A. Well, when I first started to work for Wayne, I worked on the grinder, I guess, for six or seven months. Then he put me on the cleaner.

Q. And how long had you worked on the cleaner?

A. I run a cleaner ever since.

Q. That would have been about seven years you worked on the cleaner?

A. Yes, seven, or a little better. [227]

\* \* \* \* \*

Q. Are you a member of any labor organization?

A. Well, I signed a union card the next day after they had the meeting out at Sams'.

\* \* \* \* \*

Q. And have you continued to be a member of the union since that time? A. Yes. [228]

\* \* \* \* \*

Q. Now, Mr. Cantrell, you were laid off along with all the other employees of the company, were you not? A. Yes. [229]

\* \* \* \* \*

Q. Now, Mr. Cantrell, were you given any instructions to keep the area where you were working clear and free of debris?

(Testimony of Floyd Cantrell, Sr.)

A. Well, yes, Wayne had give us all instructions, you know, try to keep it clean the best we could.

\* \* \* \* \*

Redirect Examination

Q. (By Mr. McIntyre): Did the management of the company ever tell you that you would not be reconsidered for employment, or considered for employment, because of your age?

A. No, never did.

\* \* \* \* \*

FLOYD CANTRELL, JR.

a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

\* \* \* \* \* [234]

Q. (By Mr. McIntyre): Were you ever employed by Monroe Feed Store?

A. Yes, I was.

Q. Are you employed there now?

A. Yes, I am.

Q. When were you first employed there?

A. I started work in July, 1949. [235]

\* \* \* \* \*

Q. During your employment at Monroe Feed, have you ever joined any union?

A. Yes, I did.

Q. What union was that?

(Testimony of Floyd Cantrell, Jr.)

A. American Federation of Grain Millers.

Q. When did you join that?

A. October 28th—27th or 28th.

\* \* \* \* \*

Q. Now, were you laid off on October 30, 1953?

A. Yes, I was.

Q. With the other employees? A. Yes.

Q. And then when were you rehired?

A. About the 11th or 12th of November. [236]

\* \* \* \* \*

### RAY JOYNER

a witness called by and on behalf of the Charging Party, being first duly sworn, was examined and testified as follows:

#### Direct Examination

Q. (By Mr. Bailey): Would you give your name and address, please?

A. Ray Joyner, Route 1, Monroe, Oregon.

Q. Have you ever been employed by Monroe Feed Store? A. Yes, sir.

Q. When did you first begin your employment?

A. I believe it was March in '52, March in '52.

Q. And what job did you have at that time?

A. It was just general—just odd jobs.

Q. General utility work, is that it?

A. Huh?

Q. General utility work? A. That's right.

Q. You were laid off with all the other employees of the company, were you, right at the same time?

(Testimony of Ray Joyner.)

A. Yes. [241]

Q. Were you a member of the—do you belong to a union?      A. That's right.

Q. What union is that?

A. American Federation of Grain Millers, Local 61.

Q. When did you become a member?

A. October 27th.

Q. Were you present at that meeting at Webster Sams' place?      A. I was.

Q. And you signed up then?

A. Mum-hmm.

Q. And you've remained a member since that time?      A. I have.

Q. And you're still a member, are you?

A. Yes. [242]

\* \* \* \* \*

Q. Had you been a regular employee of the company—I mean a full time employee?

A. Well, just—I have been on a favored basis, as Mr. Giesy puts it, during the school months.

Q. What do you mean by a favored basis?

A. Well, I work half a day and then go to school half a day.

Q. Is that considered as your regular job then with the company?

A. I don't know how they consider it.

Q. Well, what do you feel about it?

A. Well, I thought it was.

Q. You felt that you had a steady job?

A. Yes. [243]



(Testimony of Ray Joyner.)

Q. Work a half a day and then go to school half a day during the school period?

A. And work full time during the summer.

Q. And work full time during the summer?

A. That's right.

\* \* \* \* \*

### Cross Examination

Q. (By Mr. Masters): Did you talk to Mr. Giesy on December 23rd, 1953?

A. I believe it was somewhere around that date.

Q. Did you go into the office, or call him on the phone?

A. I was in the office, the outer office.

Q. At that time, did you have quite an argument with him? [244]

A. Well, I believe we had a heated discussion.

Q. Did you challenge him to a fight at that time? A. I think so.

Mr. Masters: That's all.

### Redirect Examination

Q. (By Mr. Bailey): What was the reason for that?

A. Well, I had asked for employment, and the way Mr. Giesy talked there was no work to be done, but I could see—I had been working around there—and I knew there was clean-up work to be done. So, I thought he was just putting me off.

Q. Did he give you any reason for not employing you at that time?

(Testimony of Ray Joyner.)

A. No. He said he would talk to the foreman, Claude Turner, about it.

Mr. Bailey: No further questions.

### Recross Examination

\* \* \* \* \*

Q. (By Mr. Masters): Repeat the conversation, as you recall it, at that time, and I'm referring specifically to your statements to Mr. Giesy about what you wouldn't have to do.

A. What I wouldn't have to do?

Q. For employment.

A. I don't understand the question.

Q. Repeat the conversation as you recall it.

A. Well, I can't remember much, but my intentions, when I went down there, was to straighten out with the Employment Service my eligibility for unemployment compensation, and I was asked to go and apply for work from Mr. Giesy, and I believe that's the way the conversation started. I asked him for work.

Q. All right, and then how did it continue after it started?

A. Well, I believe he made some mention that there was no work to be done, but he would consult the foreman, Claude Turner, to see what he could do for me.

Q. That's when you started getting mad, wasn't it, and—when he told you there wasn't any work, and you thought there was?

A. I believe that's probably right. [246]

(Testimony of Ray Joyner.)

Q. And then what did you say?

A. I don't remember.

Q. You testified earlier that you had a heated discussion. You do remember that it was a heated discussion?

A. I do.

Q. And by "heated", what do you mean? That there was some challenging, and you were telling him off?

A. Well, we were both giving each other advice.

Q. What kind of advice? What are you referring to?

A. Well, I was advising him how to run his business, and he was advising me about what a young man my age should know and should be learning.

Q. In this advice, did you tell him at that time that you didn't have to kiss anyone's ass to get employment?

A. I don't recall that statement.

Q. You don't recall saying that at all?

A. No, I don't. [247]

\* \* \* \* \*

JESS A. HOWE

a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

\* \* \* \* \*

Q. (By Mr. McIntyre): How long have you been employed by the company?

A. Since August 13th, I believe.

\* \* \* \* \*

Q. And were you working full time at that time? [250]

A. Well, when I first started, I just started at the harvest, and then when I went on the grinder or shortly after, why, they asked me if I still wanted steady employment, and I told them I did, and about two weeks before we were laid off in October, Dave Crockett sent over after me, over there at the warehouse, and I came over, and he said, "Do you still want steady employment?" And I says, "I do." So, he says, "I'm putting you on steady."

Q. But then you were laid off on October 30th with the other employees?      A. Yes.

Q. On October 30th of 1953, were you a member of any labor organization?

A. I signed a card on the 27th at Sams' house that night when we had that union meeting.

Q. You attended the meeting at Webster Sams' house?      A. I attended the meeting, yes.

(Testimony of Jess A. Howe.)

Q. After October 30th, when were you re-employed?

A. Well, I worked a few days off and on in November, and I think two days I worked, and I worked part of December. Then I was off until two weeks ago. I don't know which day it was. Two weeks ago Monday, I started back.

Q. Two weeks ago, and what job did you go back to?

A. Well, I went back, and I was on the grinder for a day or two and then they put me on the cleaner. [251]

Q. And you're on the cleaner at the present time? A. Yes, and sorting sacks.

Q. Now, during your employment with the company, have you been instructed or advised about keeping the area where you work clean?

A. No, I was never told to, because I knew it had to be done, and I done it without having to be told. I spent two days sweeping the building from top to bottom when I first went there. Outside of that, why, nothing was ever said to me about it.

Q. Did you have any—In October of 1953, did you have any conversation with anyone, other than Mr. Crockett, about steady employment?

A. Yes, I did. I was working on a Saturday evening. We had started—we had quit working all day Saturday, and we worked till noon, and one guy would work in the afternoon, and he'd have someone there, so, if a customer come in, why, they



(Testimony of Jess A. Howe.)

could load him up, and I was working on this Saturday afternoon and Mr. Giesy himself came in, and he said, "Jess, has Dave said anything to you about being on steady?"

I told him, "Yes, he told me I was on steady now, the year round." Then, he says, "Well, I'm glad to hear it because you're a good man. I'm glad to hear that you're going to be with us steady." [252]

\* \* \* \* \*

RALPH H. JONES

a witness called by and on behalf of the Charging Party, being first duly sworn, was examined and testified as follows:

Direct Examination

\* \* \* \* \*

Q. (By Mr. Bailey): And have you been employed by Monroe Feed Store?      A. Yes, sir.

Q. When did you first go to work for them?

A. January 2nd, 1953. [255]

\* \* \* \* \*

Q. And was that the job that you had on October 30th?

A. Well, it was driving truck and working in the warehouse.

Q. You had a combination job?      A. Yes.

Q. What wages were you receiving at that time?

A. \$1.20 per hour.

(Testimony of Ralph H. Jones.)

Q. How many hours a week were you working?

A. Worked 55 and 60.

Q. Are you a member of a labor organization?

A. Yes, sir.

Q. Is that the Grain Millers that's here involved?

A. Yes.

Q. When did you become a member of that union?

A. October 27th, 1953.

Q. Were you present at Webster Sams' house?

A. Yes, sir.

Q. Along with the others?

A. Yes.

Q. At that time, you signed up?

A. Yes.

Q. Have you continued to be a member of the union up to this date?

A. Yes, sir. [256]

\* \* \* \* \*

Q. Now, following your lay-off—you were laid off on October 30th with the others, were you?

A. Yes, sir.

Q. And have you since been re-employed by the company?

A. Yes, sir.

Q. On what date was that?

A. November 3rd, 1953.

Q. And what job did you have when you went back?

A. I went back to work helping in the warehouse and drive the truck.

Q. And is that similar work to what you had just prior to the October 30th lay-off?

A. Yes, just about the same. [257]

\* \* \* \* \*

TOM COOK

a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination

\* \* \* \* \*

Q. (By Mr. McIntyre): And where are you employed, Mr. Cook?      A. Monroe, Oregon.

Q. And how long have you been employed there?

A. I've been employed there since 1951. September the 10th.

Q. And have you been employed steady since that time?      A. I was till I was laid off.

Q. That was in October?      A. That's right.

Q. That was with the other employees on October 30th?      A. Right.

Q. On October 30th, were you a member of any labor organization?

A. I signed a card with the rest of them, yes.

Q. And that was for the same Grain Millers Union?      A. Yes. [260]

\* \* \* \* \*

Q. Now, after October 30th of 1953, when did you go back to work?

A. I went on Tuesday morning.

Q. Tuesday morning?      A. Right.

Q. Who hired you back?

A. Wayne Giesy.

Q. And when did he hire you back?

(Testimony of Tom Cook.)

A. Monday morning about 9 o'clock.

Q. And where did that take place?

A. Well, I started down to the post office. Wayne was coming across to the mill to go to work, and he said he'd like to talk to me. I says, "O.K.", and we went over to the office, and we got in the office and he says he's going over for his breakfast and wanted me to go along and have a cup of coffee with him, and I did. That's when he hired me back.

Q. Did you have any conversation at that time about hiring back?

A. No, I can't say we did. He just asked me if I'd go back to work, and I told him I couldn't that day, but I'd be back Tuesday morning.

Q. In that conversation, was any mention made about the union?

A. Oh, there might have been a little brought up. I can't say what it was at the time.

Q. Do you recall if anything was said at all about the union?

A. Well, I think he asked me what I thought about it.

Q. Did you tell him what you thought of it?

A. I told him that I didn't know nothing about it because I never was in a union in my life, and I didn't think too much about it right at the time.

Q. And that took place at the time——

A. When he hired me back.

\* \* \* \* \*

Q. Now, did you, during the time of your employment with the company, have you had instruc-

(Testimony of Tom Cook.)

tions about keeping the area where you work clean? [262]

A. I did.

Q. And who gave you those instructions?

A. Well, Wayne has told me that, and Mr. Turner has told me that.

Q. And were they general instructions to all of the employees, or to you specifically?

A. No. It was to the whole bunch working there to my knowledge.

\* \* \* \* \*

#### Cross Examination

Q. (By Mr. Masters): When you talked to Mr. Giesy, when you had coffee with him on, I believe it was November 2nd, about Monday, before you talked to him, relate as well as you can remember it how he asked you to come back to work?

A. Well, when we got laid off on the day that we all got laid off, when we drew our checks that night, I says, "Well", I [263] says to Wayne, I says, "Well, this is it." He says, "Well, I can't say for sure." He says, "Well, we'll check our books tomorrow", and he says, "and take inventory", and he says, "then we'll—", he says, "You come back down Monday, and I'll let you know."

So, I went out on Saturday to look for some other work, and I had to go down to get my mail on Monday, and, as I walked down there, he told me to come and have that coffee.

Q. And you then went in to have some coffee, is that it?



(Testimony of Tom Cook.)

A. That's where we finished up at. I went over to the mill with him first.

Q. What I'm getting at is this: Did you talk—  
did he ask you if you were a member of the union  
at that time?           A. I believe he did.

Q. And you told him you had a signed a card?

A. I told him I'd signed a card. [264]

\* \* \* \* \*

ELLIS CONN

a witness called by and on behalf of the Charging  
Party, being [264] first duly sworn, was examined  
and testified as follows:

Direct Examination

\* \* \* \* \*

Q. (By Mr. Bailey): Have you been employed  
by the Monroe Feed Store?           A. I have.

Q. When was the date you were first employed?

A. Well, I believe it was July the 10th of '53.

Q. And on what position were you employed?

A. I was a grinder helper.

Q. Grinder helper, and you continued on at  
that occupation until——           A. The lay-off.

Q. Until when?           A. Until the lay-off.

Q. And you're referring to the lay-off of Octo-  
ber 30th?           A. October 30th.

Q. Did you become a member of any labor or-  
ganization?           A. I did.

Q. And when was that?

A. October 28th, '53.

Q. And what union was that?

(Testimony of Ellis Conn.)

A. American Federation of Grain Millers.

Q. That's the local that's in this case? [265]

A. Yes.

Q. Have you remained a member since you joined?      A. I have.

\* \* \* \* \*

Q. Were you subsequently re-employed by the company? [266]

A. Was I re-employed?

Q. Yes.      A. I was later.

Q. When was that?

A. I imagine it was around the 23rd or 24th of January of '54. [267]

\* \* \* \* \*

### AUSTIN LEE STEVENS

having been previously sworn, was recalled by and on behalf of [272] the Charging Party, was examined and testified as follows.

### Direct Examination

\* \* \* \* \*

Q. (By Mr. Bailey): Have you seen the machinery that's in the plants at either Monroe or Corvallis of the Monroe Feed Store?

A. Briefly.

Q. Briefly. Have you seen similar type machines in other plants?      A. I have.

Q. Have you had an occasion to watch the breaking in of an individual, or the instructions of an individual on such machines?

(Testimony of Austin Lee Stevens.)

A. Yes, I have. We do it in all of our plants.

Q. What is the normal time it takes to make a competent grinder operator?

A. Grinder operator?

Q. Yes, grinder operator.

A. Well, in our operations, it takes a very short time usually.

Q. What's the reason for that? Is it a skilled operation?

A. It's not a highly skilled job in our opinion.

Q. What about a cleanerman?

A. A top cleanerman, such as a supervisor, it may take time, but most of the plants the supervisor oversees the setting of the machines, and, once your machine is set, the machine does the work, and the man—the cleanerman's main job is to keep it in operation.

Q. What is your estimate of the time necessary to be a competent cleanerman?

A. A man to operate the cleaner?

Q. Yes.

A. You mean from setting sieves, and so forth?

Q. That's right.

A. That would vary on the individual. It may take two weeks, two days, or two years. It depends.

Q. Well, what would be the average time?

A. I would say, outside of a supervisor, two to three weeks. [276]

\* \* \* \* \*

Mr. Masters: At this time, Mr. Examiner, I

would like to move on behalf of the Monroe Feed Store to dismiss the complaint on the grounds that the Monroe Feed Store is not engaged in commerce within the meaning of the Act, and on the ground that the practices charged would not affect commerce within the meaning of the Act, and on the further ground that it would not effectuate the policy of the Act for the Board to take jurisdiction in this case. [279]

\* \* \* \* \*

Trial Examiner: Well, I will deny the motion, so far as it's based upon lack of jurisdiction of the Board. I believe that the General Counsel has established facts which would [281] justify the Board in taking jurisdiction under any standard the Board has, and, of course, it's sort of in a state of flex there and no one's able to show what those standards are, but I believe it satisfies whatever standards the Board now has for an assertion of jurisdiction.

To the extent that the motion further looks toward the dismissal of the complaint, I'm not prepared to grant such motion at this time, and I do deny it.

Do you want a moment or two, Mr. Masters, at this point?

Mr. Masters: I'm not quite clear on the relief that's asked for here. It's my understanding that in the complaint there is an alleged violation of 8(a)(1) and 8(a)(5), nothing on 8(a)(3). However, I don't see that there's any way at this time to raise any objection on what might be claimed later as to the relief that they're entitled to, but I would like to make that statement.

At this time, I am going into this hearing on the basis of the complaint, in which it's alleged it's only a violation of 8(a)(1) and 8(a)(5).

Trial Examiner: That's correct. [282]

\* \* \* \* \*

ROBERT E. LOOMIS

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Masters): Mr. Loomis, I understand that you are employed by the Monroe Feed Store?

A. No. I'm employed by E. F. Burlingham & Sons.

Q. Do you do some work for the Monroe Feed Store?

A. I do the bookkeeping, that is, the control of books, yes.

Q. Now, have you been doing that during 1952, '53 and '54?

A. I have. [283]

\* \* \* \* \*

Q. (By Mr. Masters): I have here an exhibit marked Respondent's 1. Could you tell me if you are familiar with that, those figures?

A. Yes, I am.

Q. Would you state what they are?

A. Well, it's the profit and loss statement for September, 1953.

Q. And was that taken directly from the records of Monroe Feed Store?



(Testimony of Robert E. Loomis.)

(The document heretofore marked Respondent's Exhibit No. 1 for identification, was received in evidence.)

## RESPONDENT'S EXHIBIT No. 1

### MONROE FEED STORE

Sept. 1953

Inv at Beginning	72497.81	Sales	471031.84
Purchases	462663.78		
Returns	1399.01		
	<hr/>		
	536560.60		
Inv at End of Period	117707.05		
	<hr/>		
	424853.55		471031.84
			424853.55
			<hr/>
			46178.29
Expenses	66449.87		
Depreciation			
Autos	763.74		
Bldg.	800.00		
Furniture	75.29	Mdse	46178.29
Mach	1164.66	Mill	10404.44
Equip	89.40	Miscel Income	24.00
Reserve Bad Debts	1177.58		
	<hr/>		<hr/>
	70520.54		56606.73
			70520.54
		A/C Payable	16233.39
			<hr/>
			86753.93
		Loss	30147.20

Q. (By Mr. Masters): Did you talk to Mr. Giesy on the telephone on October 30th?

(Testimony of Robert E. Loomis.)

A. I don't think I did. I don't believe I did.

Q. Have these figures subsequently turned out to be erroneous in part that you know of?

A. No, not that I know of.

Mr. Masters: That's all. [286]

Cross Examination \* \* \* \* \*

Q. (By Mr. McIntyre): And then you made up this slip for them?

A. I made up the profit and loss statement there for my own books, yes.

Q. And then did you give them a report of your findings? A. Yes, sir.

Q. And this is your findings?

A. That's a copy of it. [287]

Q. And when did you advise—when did you give them that report? How did you send it to them?

A. Well, I mailed it to them. \* \* \* \* \*

Q. And then you had received the inventory, and then you made this report from the inventory, is that not right?

A. Yes. I would say that was probably mailed to them the latter part of October because these inventories are slow in coming. Sometimes their check book stubs are slow in coming, and we have a good many of these branches that we do the same thing with. \* \* \* \* \* [288]

Q. Now, is it my understanding that for September that the company's earnings amounted to about \$10,000 on this report, and that the labor cost amounted to about \$39,000?

(Testimony of Robert E. Loomis.)

A. I wouldn't know about that without looking at the figures. September—whatever your figures are there—would be a cumulation from May 31st. Their books close on May 31st.

I can tell you. That's on what date? What month did you want on the labor?

Q. Well, what about——      A. September?

Q. What about for the month of September?

A. Well, the accumulated labor from the 31st of May to the end of September was \$39,822.

Q. You didn't have it broken down in months at that time?

A. I don't break it down on these, no.

Q. Did you have it broken down for the month of October?

A. Well, October's labor was \$8,600.

Q. And what about the mill earnings?

A. The mill earnings are cumulative too. The mill earnings at the end of September were \$10,404.

Q. \$10,000, and the labor at that time was \$39,000?      A. \$39,000. [290]

Q. Now, what about this figure for labor, \$8,600? What are the earnings for that period?

A. The earnings for that period would be \$3,600.

Q. \$3,600. Now, do you have any other month broken down, other than——

A. These are cumulative. They're not broken down by months. I was breaking this down and subtracting these in my head right now.

Q. Would you be able to break it down, compar-

(Testimony of Robert E. Loomis.)

ing the \$39,000 and \$10,000—would you be able to break it down for the month of September?

A. September, that would be——

Q. September would be cumulative from May, has it not, in that report?

A. Yes. Do you want to know what it was just for September?

Q. Just for September, yes.

A. Well, his labor for September was \$9,100.

Q. And what was the——

A. His mill earnings for that same month, which is one of his biggest months, was \$5,600.

Q. \$5,600?

A. Now, that's mental arithmetic, remember.

Q. That's for September though?

A. That's for September.

Q. And this \$8,600 and \$3,600 figure, that's for October? [291]

A. That would be for October.

Q. What about—do you have—can you break it down for November?

A. November over October——

Q. Well, October we've got, I believe, \$8,600 and \$3,600, and then if you've got November——

A. November labor was \$3,800.

Q. \$3,800?      A. Yes.

Q. And what about the net earnings?

A. The mill earnings, \$6,200.

Q. \$6,200?      A. \$6,200.

Q. That's for November?

A. That's for November.

(Testimony of Robert E. Loomis.)

Q. Could you break it down for August?

A. August—it's mental arithmetic.

Trial Examiner: It seems to be satisfactory though.

The Witness: Well, August—his August labor was \$14,000.

Q. (By Mr. McIntyre): \$14,000?

A. Just a minute—\$14,800.

Q. \$14,800, and what is the net earnings?

A. His mill earnings—and August is a poor month for you to ask that question because they're just starting cleaning—his mill earnings were \$1,300. [292]

Q. How much?                      A. \$1,300.

Q. \$1,300. Now, the figures that I have, I have for September labor cost of \$9,100 and mill earnings at \$5,600. Now, would you consider that, after having examined his books, as one of his better percentage months?

A. Well, I don't know as to that. I would figure August and September should be his best months, as far as cleaning.

Q. August and September?

A. Yes, because the grain and seed come in pretty well.

Q. Well, August he didn't do pretty well. August labor costs were \$14,800, and mill earnings were only \$1,300. What is the reason for that?

A. Well, this last year, '53, I suppose that the harvest was a little bit later than ordinary. That might have some bearing on it.



(Testimony of Robert E. Loomis.)

Q. Well, now, would you say that your mill earnings should be at least 50 per cent of your labor cost, shouldn't they?

A. They should be more than that.

Q. They should be more than that?

A. We have plants that the mill earnings will take 70 per cent of the labor. We have other plants that the mill earnings take all of the labor. [293]

\* \* \* \* \*

Q. (By Mr. Bailey): I'm a little bit slow in regard to figures, but Mr. McIntyre was asking you about mill earnings. Is that the net earnings of these operations here that he was talking about?

A. The mill earnings—what we call mill earnings is the charge that they make for cleaning seeds, grains, or mixing of special mixes, that is, in grinding, and things of that kind. [294]

Q. It has no connection with profit and loss then?

A. It has a connection with profit and loss, yes. It goes in as an earning.

Q. As I understand Respondent's Exhibit 1, that is an accumulative index as of September 30th?

A. From May 31st, yes. \* \* \* \* \*

Q. But my understanding of your testimony, Mr. Loomis, the [295] purpose of this was to determine how this group of warehouses—now, is that referring to the Burlingham & Sons group of warehouses, or what group did you mean?

A. Yes, it would be the E. F. Burlingham group of warehouses, yes.

(Testimony of Robert E. Loomis.)

Q. And that's the one that's being financed by the Bank of California?

A. Yes. That is, there are two groups. One group comes under the name of Burlingham-Meeker at Amity, which owns the group on this side; that is, they're grouped that way, the corporation, and one corporation owns the stock of the other corporation or a portion of the stock.

Q. In other words, sort of a holding company situation?

A. No, it isn't a holding company.

Q. But it operates on that principle?

A. Oh, it might.

Q. Now, do you furnish the rest of this group with a similar type statement?

A. Every month.

Q. How have those generally been?

A. Well, as I say, we have one that the mill earnings pay all the labor it has, and we have another one at——

Q. Which one is that?

A. At Dairy. Of course, you can't compare Dairy with Monroe too well because it's more or less of an automatic mill. There [296] isn't the hand labor that's used here.

I would compare probably the plant at Amity with the one at Monroe, as far as the labor cost should be as to the tonnage they handle, and Amity will pay—their mill earnings will just practically balance their labor, not quite.

Q. Now, are there any of the other groups that

(Testimony of Robert E. Loomis.)

have a comparable experience to the Monroe Feed Store, any other group, I should say?

A. You mean as to what?

Q. Well, you're speaking here about a loss situation. Does that exist in any of the other operations?

A. We have losses in some of the others too, and they're getting the same going-over that Monroe has.

Q. Did they lay off all their employees?

A. No.

Q. How long have you been doing this sort of work for Burlingham & Sons?

A. Sixteen—let's see—sixteen years. [297]

\* \* \* \* \*

#### JUNE L. URBACH

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

#### Direct Examination

\* \* \* \* \*

Q. (By Mr. Masters): Are you employed at the Monroe Feed Store now?

A. I am. [316]

Q. In what capacity? A. Bookkeeper.

Q. Were you there in 1952 and '53?

A. I was.

Q. Did you make out the paychecks on October 30th when the employees were laid off?

A. I did.

Q. And was that at Mr. Giesy's direction?

(Testimony of June L. Urbach.)

A. It was.

Q. Had you heard any conversation in his office on October 30th that related to the discharge of the men on that date?

A. The morning of October 30th, he informed me, when I got to work, that he had had a call from Forest Grove, and that we would have to curtail our operations and lay off some of the men.

In the afternoon, he told me to write out the pay-checks.

Q. Had you at any time heard any conversation prior to October—prior to the time the men were laid off concerning union activities?

A. I had not.

Q. Did Mr. Giesy talk to you on October 30th concerning any statements made about union meetings?

A. He did not.

Q. Were you present on November 3rd or 4th when Mr. Giesy and Mr. Mumford had a conversation in the office? [317]

A. I was.

Q. Would you relate, to the best of your recollection, the conversation?

A. Well, let's see. Kenny came in that day, and he asked him, he says—Wayne says, "I hear you filed a charge against me", and Kenny says, "Oh, no, I didn't", and Wayne says, "Well, you must have."

Kenny says, "Well, they had something for me to sign, but I don't know what it was", and he says, "Frank signed a great long one". He motioned with his hands, and he says, "I only signed a little short

(Testimony of June L. Urbach.)

one." Wayne says, "Well, maybe perhaps the little short one could be just as much as the big long one", and Wayne asked him if he had ever told him anything prior to this time about having a meeting, and Kenny said, "No", he says, "I never told you." [318]

\* \* \* \* \*

Q. (By Mr. Masters): Have you ever heard Mr. Giesy make any statement to the effect that he would shoot himself before he would go union, or anything like that? A. No, I haven't.

Q. Have you any knowledge of the reason for the discharge, other than you've given here, of the men on October 30th?

A. I have not, no. [319]

\* \* \* \* \*

#### Redirect Examination

Q. (By Mr. Masters): I didn't understand that there was any part of your testimony that was false at this time, as intimated by General Counsel for the National Labor Relations Board.

However, I would ask you now to relate to the best of your knowledge and recollection exactly what the conversation was between Mr. Mumford and Mr. Giesy that you heard on October 30th.

A. Kenny came in and he said, "We sure had a meeting out to Sams' last night", and that was all that was said. He said, "We had a good get-together."

Q. Was the word "union" or "organization", or anything, used at all?

A. Not whatsoever. [325]



\* \* \* \* \*

Mr. Masters: At this time, I would ask the General Counsel to produce the affidavit of David O. Crockett, which I understand is in your file. I would like to introduce it in evidence at this time, and have it marked as Respondent's 2. Mr. Crockett is deceased, and he gave a sworn affidavit to the representative of the National Labor Relations Board.

Mr. Bailey: Mr. Trial Examiner, I have never seen this specific exhibit. I certainly wouldn't have the opportunity to cross examine on it.

Trial Examiner: It would have to go in on stipulation.

Mr. Bailey: That's impossible, because I've never seen the [328] affidavit he's talking about.

Trial Examiner: Well, the request is made of the General Counsel to supply the affidavit. That's first, is it not?

Mr. Masters: Yes.

Trial Examiner: Have you seen a copy of the affidavit?

Mr. Masters: I just saw it. Yes, I have it here.

Trial Examiner: So, you know what the affidavit consists of?

Mr. Masters: Yes.

Trial Examiner: Now, your problem is to get it into evidence?

Mr. Masters: That's right.

Trial Examiner: I know of no way you can do so except by stipulation.

Mr. McIntyre: Neither do I, and not by stipulation of General Counsel, certainly.

Mr. Masters: Is it the position of General Counsel then that he refuses to put the affidavit in evidence?

Mr. McIntyre: Correct.

Mr. Masters: Well, I have a document to be marked Exhibit 2.

(Thereupon the document above referred to was marked Respondent's Exhibit No. 2 for identification.)

Mr. Masters: I have here a document marked Respondent's Exhibit 2, stating "United States of America, Before the National [329] Labor Relations Board, Nineteenth Region, State of Oregon, County of Benton, Affidavit.

"I, David O. Crockett . . ."—

Mr. McIntyre: I'm going to object.

Trial Examiner: To reading the affidavit?

Mr. McIntyre: To reading it, definitely.

Trial Examiner: Well, there's no purpose to be accomplished by it. Let's see. Obviously, you want to offer that in evidence.

Mr. Masters: I do.

Trial Examiner: On the present state of the record, and any state of the record that I can imagine, except by way of stipulation, I think it would have to be rejected, but, of course, we do have a device called a rejected file whereby such an offered exhibit would be carried along by the Reporter and submitted to the Board in that form, in the rejected form, so that in the event the Board decided that the ruling is incorrect, they could reverse it and have the advantage of the exhibit.

Now, as a preliminary to it, I suggest that counsel be asked to stipulate that what Mr. Masters now holds in his hand and what has been marked as Respondent's Exhibit No. 2 is in fact an affidavit executed on or about a certain date by Mr. Crockett.

Mr. McIntyre: Is it the desire of the Trial Examiner to have duplicates for the rejected file too?

Trial Examiner: Oh, I suppose the duplicate rule applies [330] to the rejected file, as well as any other. However, if it is an unreasonable burden and would cause duplication at this late hour——

Mr. McIntyre: I'll furnish counsel with a duplicate. I will stipulate that this is a true and correct copy of the affidavit that the General Counsel has.

Trial Examiner: And that the affidavit is what it purports to be, a statement given by a certain individual, whose signature is appended before a field examiner of the National Labor Relations Board on the date shown?

Mr. McIntyre: That is correct.

Trial Examiner: Now, we'll see if Mr. Bailey will agree to that.

Mr. Bailey: I would have to go along on the basis that I assume counsel representing the other parties here know what they're talking about. I have no knowledge myself, but I would be willing to enter into a stipulation for that purpose only.

Trial Examiner: All right, then, there's no question about it for identification of the document. The only question is as to its competency, and I rule that it is incompetent, and Respondent's Exhibit 2 will be filed in the rejected file.

(The document marked Respondent's Exhibit No. 2 for identification, was rejected.)

RESPONDENT'S EXHIBIT No. 2

[Rejected]

United States of America

Before The National Labor Relations Board

Nineteenth Region

AFFIDAVIT

State of Oregon,  
County of Benton—ss.

I, David O. Crockett, a person of lawful age, being first duly sworn, make the following statement voluntarily and of my own free will:

I live at 1393 Franklin Street, Salem, Oregon. My telephone number is 2-6000. I am the manager of the Corvallis store of the Monroe Feed Store.

On or about Wednesday, October 28, 1953 I went over to the Southern Pacific depot to get some cars turned loose and one of the fellows there whose first name is Bill, who clerks there asked me what happened at the Union meeting the night before at Belfountain. I didn't want to admit to him that I didn't know what was going on so I just turned it off. When I came back to the office Webster Sams and H. G. Gann were eating lunch in the display room. I asked Webster then if he had attended a union meeting down in Belfountain. He said, "In order to have a union meeting you have to have a meeting in a union hall don't you?"

I said: "No, I don't think so. I've attended a lot

Mr. Masters: The record will show that one copy does not have the signature on it. It's a copy of everything but the signature, and there has been testimony that Mr. Crockett is deceased, which is the reason for the offer of this affidavit, rather than his testimony.

Trial Examiner: Yes.

\* \* \* \* \*

WAYNE R. GIESY

having been previously sworn, was recalled by and on behalf of the Respondent, was examined and testified as follows:

Direct Examination

\* \* \* \* \*

Q. (By Mr. Masters): On October 30th, 1953, you fired the employees of the Monroe Feed Store?

A. Yes.

\* \* \* \* \*

Q. Will you state the reason for this?

A. Well, it would be a culmination of reasons. It started [332] about two years ago. First of all, it's more difficult to borrow capital, and, at the end of 1953, our fiscal year ended May 31st, our profits were very, very small. As a matter of fact, with a plant and operation of over a million dollars in sales, our profits were less than \$5,000.

The year prior, the year ending in 1952, our profits were in excess of \$16,000.

At that time, the Board of Directors of Monroe Feed Store made it very pointed that, if we were to continue operating and borrowing the necessary



(Testimony of Wayne R. Giesy.)

amounts of capital, we would have to have better record-keeping and find out where our errors were being made, if any, and, by doing that, they instigated the inventory system, which was to start on September 30th.

By doing this, we handed in our inventories on September 30th, and at that time—I shouldn't say we handed them in on September 30th. We took them on September 30th, and it would take us several days to price them. We would have to compute the values, consolidate them into a report, and send them to E. F. Burlingham & Sons' office in Forest Grove to enter in the master bookkeeping.

At that time, the report came in that showed—I received the final report on October 30th, stating that we had a \$30,000 loss.

Q. Is that the report referred to as Exhibit Respondent's 1?

A. Yes. That's the financial profit and loss statement.

Q. Made by Mr. Loomis?

A. Made by Mr. Loomis.

Q. Had you talked to anyone from the office of Burlingham & Sons on October 30th?

A. Yes, I did talk to someone on October 30th, which is indicated also by our telephone bill, showing a call to Forest Grove. During that time, they told me it would be necessary to take very drastic action to at least see that our P. & L. was in proper shape in the future.

(Testimony of Wayne R. Giesy.)

The decision as to what to do was left up to myself.

Q. That decision then to fire those employees was your own decision?

A. That was my own decision.

Q. Did anyone ever suggest that you fire all your employees, any other officer or other director of the store?

A. No, but I think you can understand that, if a report comes in that shows you've a \$30,000 loss from the beginning of the fiscal year, you would be rather concerned about it, and, at that time, from the time of the phone call until such time as I made up my mind to lay the men off during the day, that was my entire decision. I was not told what to do.

Q. Had you intended at that time to fire them completely, or did you intend to rehire some back later?

A. At that time, I was not in position to know just exactly what steps were necessary. So, I decided that I would discharge [334] every one of the employees, and, from Friday evening until Monday, I devoted my full time to the operation, deciding what phases we would bring back.

I wasn't in position on Friday evening to commit to any individual what we would do, and Monday I wasn't definitely sure in all cases what we should do. However, it was decided over the weekend that we would run the grinding operation at Monroe at least.

(Testimony of Wayne R. Giesy.)

Q. You mean then that you would discontinue the cleaning operation, and run only the grinding?

A. Discontinue the cleaning, and run only the grinding because our largest amounts of money were spent—as far as labor-wise—were spent on the cleaning operation, and there were lesser amounts of employees on the grinding operation.

Q. Would you explain the cleaning process, and also the mixing and grinding process?

A. I'll start on the cleaning process first. In the cleaning process, we have talked of two different types of things here, I think, that have been confused. First of all, we have talked about scalping machines.

This past year, and I'll quote from a note here, at the Monroe operation we shipped 14 cars of what we classify "clean seed". For the same period—that was the period ending October 30th from the start of harvest—for the same period in '52, at the Monroe operation, we shipped 28 carloads [335] of clean seed. That was just double at the Monroe operation.

At the Corvallis operation, in '52, we shipped 23 cars of clean seed, and this past year ending October 30th we had only shipped 10 cars of clean seed.

Now, this is brought about by the Government is not advocating quite as strongly for the winter cover crop seeds, which are entirely processed on the small cleaning equipment, and, just by this very fact alone, and by the small amounts of grain we had left at October 30th yet to clean, I would

(Testimony of Wayne R. Giesy.)

have had no justification to any of the Board of Directors to continue the operation on the basis that we had, because we didn't have enough amounts of cleaning there to do.

Now, in cleaning, this particular type equipment, this is what we call run over a unit, if it's vetch, and a unit, if it's rye grass. The unit for vetch is one 29-D clipper, a hook carder in between the machines, and another 29-D clipper. The clippers are screen machines. The carders are disc machines.

First of all, on the small cleaning, you scalp off the rough material off the top screen. The seed that you are trying to process would then drop through the first screen and remain on the second screen. The fine stuff that you are able to screen out goes through the second screen, and the grain that you still desire floats over the top of the second screen and drops to the next shoe. You have a very similar system on the second shoe of that first machine with two screens, a top and a [336] bottom, and you do likewise only you have a finer screen.

From there, the seed that you desire is re-elevated, drops to the lower level, re-elevated, and put through a hook carder. Now, we'll say, for example, it is hairy vetch we're after. Most crops are grown in combination with what we call oats and vetch, and, in that mixture, it can be chaff, weed seeds, oats, volunteer barley, and perhaps some wheat and vetch.

Q. Those are all screened out then in one operation?

(Testimony of Wayne R. Giesy.)

A. Those are completely separated by the time that they go through this particular unit, and the large carder—the vetch and the wheat, first of all, is separated because they drop into a round disc or a slot disc and are lifted from the long oats which won't catch in this particular unit.

Then that material is dropped onto the second screen machine to be regraded and fanned again to relieve it of all the dust. You still have your wheat and your vetch together, which are very similar in size. The vetch is very circular, will roll very rapidly from the second screen machine to where it is put through a draping machine. This draping machine is a series of canvases, a bank of 10, and they travel what I consider uphill. At the upper edge—I shouldn't say at the upper edge—at about the middle of this draper, this vetch and wheat is distributed onto the canvas. The vetch, being very circular, rolls rapidly off the lower part of the canvas, and the wheat, being irregular in shape, is carried to the top of the canvas and [337] separated.

In this cleaning operation, we've taken, first of all, what we classify as the pods off the light screens or off the top of the first screens. When it comes onto the second screen, the wheat and vetch and oats remain together, and we've taken through the bottom of the second screen what we would classify medium screening, and that would be small grain, or something that wouldn't be of full size.

When it goes into the carder, there's another



(Testimony of Wayne R. Giesy.)

separation made of the oats and barley, and another of wheat and vetch. Then on the third machine—rather, the fourth machine, on the draping machine, the wheat and vetch are separated by the process I just mentioned.

As the vetch drops from the draping machine, it is put through a grader, which is a circular disc, punched full of some 8/64 round holes up to 10/64 round holes, and, by running it through this circular grader, you separate out the different grades of the vetch that you wish.

Now, this is the thing that I mentioned to begin with, that you could separate several different items in one cleaning operation, not referring that you make clean seed out of all of them, only that you may separate—make the separation of all these different items.

Now, in that operation, you can see that it takes a great deal more time than it would be going back now to a scalper, [338] which is a similar type screen machine, a gigantic machine, and, whether we use our scalper—what we use it for is processing malting barley. In processing malting barley, the maltsters put the grain and the barley that is to be a berry—when I say “a berry”, that is the particular kernel that will pass over the top of a slotted screen of measurements of  $5\frac{1}{2}/64$ ths by  $\frac{3}{4}$  inches long, and, in doing this, you drop out all the small kernels that are undesirable, to supply the maltster with a berry that is uniform in size and will sprout uniformly, and, after all, it is the

(Testimony of Wayne R. Giesy.)

sprouting and attacking of the enzymes on the starches that makes the malt. That's the reason for the uniformity and the desire for it.

In doing this, we can process up to two—sometimes three—carloads of barley in a normal working day, where with two to three units of the small cleaners, it would be very difficult for us to process as much as one carload of clean seed in a day. Three men run a large scalping machine, whereas it would take perhaps—when I say it would be a carload of clean seed on three units in a day with small cleaners, you would have 12 or 13 men busy on the small cleaners producing a maximum of one carload of clean seed in a day, whereas, on the large scalping machine, in a 24 hour period, we have produced a maximum of four cars of malting barley through this machine.

Now, the change in the operation is the trend is away from seeds and into more grains. As you see in our shipping records [339] here, we shipped in one case just half the number of cars, that is, at the Monroe plant, and, in the other case, we did not even ship half the number of cars of seed this year that we did the prior year, and the backlog of seed and grain that we had left to process, when I received my September 30th audit figures, did not justify and I could not justify to the other directors of the Monroe Feed Store that we had sufficient work to keep the men on.

So, when I showed as badly in my figures as I had, it was my decision to lay the entire crew off.

(Testimony of Wayne R. Giesy.)

Since that time, we took back the grinderman, and I think, as he had indicated, when he had talked to me, he told me that he had signed a union card, and I did not discriminate against him because he was a reasonable employee, and he still is.

Q. Who are you speaking of?

A. That's Tom Cook. That was the first man I took back.

Q. That's at Monroe?                      A. At Monroe.

Q. And you took him back in mixing and grinding feeds, did you?

A. That's right, and that was the decision I had made over the weekend, to operate the mixing and grinding on a minimum basis until such time as we could decide what we would operate throughout the plant.

Q. Who was the next person you took back there?

A. The next person that we took back at Monroe was Floyd Cantrell, Jr. [340]

Q. And to do what type of work?

A. To do hauling, as he had done before, and to——

Q. Did you—pardon me.

A. ——and to verify my record on that, Floyd Cantrell was informed at the time of his employment that we would base his wages at a minimum of \$1.50 an hour and try to justify a tonnage rate over the period of the next two or three months when we had the hauling records behind it.

Now, the next man we took back at the Monroe

(Testimony of Wayne R. Giesy.)

plant I believe—well, in the meantime, we employed Elmer Simons on the same type or basis that we had employed Floyd Cantrell.

Q. Did you go back into your cleaning operation then in Monroe?

A. We did not go back into the cleaning operation in Monroe to any degree, other than what Mr. Turner did periodically among his other duties at the mill, who was the foreman at that time. [341]

\* \* \* \* \*

Q. How many men do you now have working in Monroe doing cleaning?

A. We have no one particularly assigned to the cleaning operation in Monroe.

Q. You have no one then that's doing full time cleaning work there?           A. No, sir.

Q. Do you have the records on when Mr. Conn was—was he a former employee?

A. Since—yes. Since the lay-off on October 30th, we have expanded the sale of mixed and ground feeds into the Coquille area, which I mentioned in prior testimony, and, by doing that, we have ground and processed more mixed feeds and molaserized screenings for that particular area. That has entailed more hauling. It has entailed the use of a mixerman to be put on during the evening, and we drew Ellis Conn back at the time that this work load was too much for the one man to do.

Since that particular period of time, he was relieved because he didn't show up for work, and we had reason to believe it was from other causes

(Testimony of Wayne R. Giesy.)

than what were in the normal line of every day living. [344]

\* \* \* \* \*

Q. (By Mr. Masters): Mr. Cantrell, Sr., according to the evidence to date, has been shown to be the one oldest in the service at Monroe. He was not hired back. Were you hiring your men back on a seniority basis or why did you hire them back in the order that you did?

A. The reason that I hired the men back in the order that I did was that I picked the men out of the group, men that had been working with us before, that I thought would fit into the particular jobs that we had to offer better than any of the others, not on a seniority basis.

In that particular case, Mr. Cantrell is very good at some jobs. He had one habit of standing by doors, which is mentioned in his conversation that I hated to see a man stand idle, and that I didn't particularly approve of. Other than that, I certainly have no complaints about Mr. Cantrell.

On his particular type of cleaning, Mr. Cantrell did a good job. In the overall picture, I [345] didn't think he would fit into the amount of jobs that we had at this time. [346]

\* \* \* \* \*

Q. Are you doing enough cleaning of seed to warrant rehiring Mr. Mumford at any time after he was discharged?

A. We haven't up to date. I'll correct that to this degree: We haven't had cleaning for him over



(Testimony of Wayne R. Giesy.)

and above the other two boys that we hired to do it. I will put it in that fashion. We hired Frank and Don Harrington to work on those particular jobs.

\* \* \* \* \*

Q. You had a conversation with Mr. Joyner when he came to your office in December about getting work again. Is that the first time he had asked for work after he was let go? [347]

A. Yes, it was.

Q. What date was that, do you recall, December 23rd?

A. I don't recall the exact date. That could have been very close to the date.

Q. Would you relate, as well as you can, that conversation that you had with him at that time?

A. From my recollection, his first comment was that he wanted to be re-employed, and he mentioned perhaps neither one of us were combing one another's fur correctly, and I said that at that particular time I didn't have anything for him to do, and his next comments were he was being tired of being pushed around by " \* \* \* you big bastards", and I asked him pointedly if that referred to me, and he said, "No." During the conversation, I told him the best way that a young fellow could get along that needed employment would probably be to state what his problem was and ask if there would be a solution to it, rather than approach an employer upon that basis, and, at that time, he stated that he did not have to kiss anyone's ass for employ-

(Testimony of Wayne R. Giesy.)

ment, which—the discussion continued for a short while, and he used some obscene language in addition to that, in addition to inviting me outside to fight a 17 year old boy, which, of course, I would not do under any consideration, and, that in substance was the basis of the conversation.

At this time, with his attitude towards us as it is, I wouldn't hire him under any consideration. It just wouldn't be [348] possible.

Q. What attitude are you referring to now?

A. His attitude toward us.

Q. His attitude that he was——

A. His attitude that he was being pushed around by big bastards and he had to kiss anyone's rear end isn't required of anyone that we ever had working with us. \* \* \* \* \* [349]

Q. Mr. Emerson and Mr. Sams were doing cleaning prior to their discharge?

A. Yes. Mr. Emerson, at the time we shut down, was off from work due to a broken jaw that he received in some brawl over the countryside here at one of the dance halls, and he was not present at the time of the shutdown. He was notified by letter. I think under the circumstances I would rather not have the man back.

Mr. Sams was doing cleaning, and it's my testimony—and I have papers here to support it—that his cleaning jobs have not been satisfactory.

Q. In what respect?

A. Well, first of all, he does not take corrective criticism while working on the machinery regard-

(Testimony of Wayne R. Giesy.)

ing the necessary changes that have to be made in either the setup of the machinery or the continuation of its operation.

Here in front of me is a cleaning record that's dated September the 9th, that Mr. Sams worked on, that has 2.38 per cent [354] weed, which reduces the price of this particular rye grass seed by at least \$1.50 per 100, and, in the lot, there is 196 sacks and 25 pounds. That's 196 one hundred pound sacks and 25 pounds, and the purity of the material is only 97.45 pure, when it should be 99. The weed count is 2.38, and it should be less than a half of one per cent, or .50.

I have another cleaning record here that shows  
— \* \* \* \* \* [355]

Q. Did you on October 30th or any other time since then discharged any of these employees for union activities?      A. No, sir.

\* \* \* \* \*

Q. (By Mr. Masters): Have you engaged in any rehiring practice to attempt to defeat organizational efforts or discriminate against the union?

A. No, sir.

\* \* \* \* \*

Q. (By Mr. Masters): At the time that you rehired Mr. Jones, Mr. Howe, Mr. Cantrell, Jr., Mr. Cook, Frank Harrington, Don Harrington, did you have any knowledge that they had signed union cards? [356]

A. Mr. Cantrell, Sr., had advised me that the majority of the men had signed union cards. That

(Testimony of Wayne R. Giesy.)

was on the day following the lay-off. So, I would say in the affirmative.

Q. Do you have a fluctuation in the amount of work that can be done in your mill in your operation? Does it fluctuate by seasons, or by years, or months?

A. Well, going back to the fall of 1952, which would be one year prior to the time of the lay-off, at the Monroe plant we had in excess of 500 tons of mixtures of grain or seed grains to be cleaned.

As of the lay-off, we had very little over 100 tons. I think it was between 105 and 110 tons of grain to be cleaned. The same percentages were at Corvallis, and I do not recall those figures, but we had very little cleaning to do.

The amounts of seed and grain that are delivered to us during the summer months will spell out exactly the amount of time necessary to keep the strictly seasonal crew and perhaps some of the men that we would like to keep steady during the fall and the winter, and, if it falls off too badly, we do not have anything for them to do. We are definitely seasonal to the degree that we receive from 100 to 300 tons of grain during the harvest season. It's stacked up and stored away for cleaning and processing, and when that has been completed, we have no further work.

This last year, as I mentioned before, the trend has been [357] away from seed crops, and has been for straight grain crops. Our large scalper has enabled us to handle the grain crops rather rapidly

(Testimony of Wayne R. Giesy.)

and put them into the proper shape for shipping, and that is one reason that we have this small amount of work during this winter period.

Q. On October 30th, you had a conversation with Mr. Mumford in your office around noon or 1 o'clock? A. Yes.

Q. Did he tell you at that time that there had been a union meeting, or union activity?

A. No, he did not.

Q. Will you relate to the best of your knowledge that conversation?

A. To the best of my knowledge, Mr. Mumford offered the conversation that they—when I say “they”—a group of the employees of the Monroe Feed store had had a get-together some evening prior to that time at Webster Sams’ place, and they had a good time, and that concluded the conversation.

\* \* \* \* \*

Q. Did you have a conversation, a telephone conversation, with Mr. Crockett on October 30th?

A. With Mr. Crockett?

Q. Yes. A. On October 30th?

Q. Yes. A. Yes.

Q. What time was that?

A. The first time I called Mr. Crockett was rather early in the morning and I advised him that he was to come to Monroe to have a conference with myself.



(Testimony of Wayne R. Giesy.)

\* \* \* \* \*

Q. Did he come to Monroe? Did you talk to him at Monroe on October 30th?

A. Yes, I did.

Q. What was that conversation, as well as you remember it?

A. Well, the conversation entirely took up the financial report that I had received, and a discussion with him as to what I would do as far as operating the plant. At that time, I advised him that it would be necessary that I discontinue it until we discovered what items we were doing that paid us properly, and what items we would have to discontinue, and it was planned at that time to work as vigorously as possible through the weekend to discover just what operation we would run, if any, the following week. [359]

Q. Did you at any time authorize Claude Turner to talk to the men about union activities?

A. I at no time authorized Claude Turner to talk pro or con regarding union activities with the men.

\* \* \* \* \*

#### Redirect Examination

Q. (By Mr. Masters): Have you ever tested samples of cleaning done by Mr. Sams?

A. Yes. I have directed Mr. Crockett to go to the cleaner and acquire samples for me of the cleaned seed, the product of Mr. Sams' work.

\* \* \* \* \*

(Testimony of Wayne R. Giesy.)

Q. What was the result of those tests?

A. They were not satisfactory.

Mr. Masters: That's all.

Recross Examination

Q. (By Mr. McIntyre): Did you tell Mr. Sams that they were not satisfactory?

A. Yes, and I also mentioned how to set the cleaner to make them satisfactory.

Q. And you yourself talked to Mr. Sams?

A. I participated in that conversation once, and I advised Mr. Crockett on other occasions.

Q. Did you advise Mr. Sams?

A. I advised Mr. Sams directly once.

Q. And when was that?

A. That would have been in August or September of '53.

Q. And where was it done?

A. It was done in the Monroe Feed Store, Avery Lane, Corvallis plant. [382]

\* \* \* \* \*

Q. So, you told Mr. Sams then some time during August or September about this?      A. Yes.

Q. Did you remove him from the operation?

A. I thought that he would respond to the corrections, which it's obvious that he didn't.

Q. It was obvious as of when?

A. As of the time the official report was returned from the seed analyst.

(Testimony of Wayne R. Giesy.)

Q. You mean there was another test made?

A. Yes.

Q. And what test was this one?

A. That was an official seed analysis. [384]

\* \* \* \* \*

Mr. Masters: Will you mark these documents, please?

(Thereupon the documents above referred to were marked Respondent's Exhibits Nos. 3, 4, 5 and 6 for identification.)

Mr. Masters: I have exhibits, Respondent's 3, 4, 5 and 6, in duplicate, which are letters from myself to Mr. Bailey which I would ask Mr. Bailey to stipulate that they would be admissible at this time.

Mr. Bailey: I have no objection. [391]

\* \* \* \* \*

Trial Examiner: All right. Now, is there objection to their receipt?

Mr. McIntyre: No, I have no objection.

Trial Examiner: Do you, Mr. Bailey?

Mr. Bailey: I have no objection. [392]

Trial Examiner: They will be received.

(The documents heretofore marked Respondent's Exhibits Nos. 3, 4, 5 and 6, for identification, were received in evidence.)

RESPONDENT'S EXHIBIT No. 3

[Letterhead of Masters and Masters]

Mr. Paul T. Bailey

December 7, 1953

Attorney at Law

1207 S. W. Third Avenue, Portland 4 Oregon

Re: Monroe Feed & Seed Co.

Case No. 36-CA-434

Dear Mr. Bailey:

I note in your letter of November 20, 1953, addressed to me, requesting that I recognize the Grain Millers' Local 61, in connection with the representation of the employees of Monroe Feed & Seed Company, that you refer to a case number.

Inasmuch as this raises a certain amount of doubt as to your claim of representation, I would appreciate having you inform me whether you claim to represent a majority of the employees now employed by Monroe Feed & Seed Company or whether you only claim to represent a majority of those employees named in the charge filed in Case No. 36-CA-434. Do you also claim to represent the office and clerical employees of Monroe Feed & Seed Company as well as those employees engaged in the processing and hauling?

Yours very truly,

Masters & Masters

/s/ By W. Masters

WJM:b

(Copy)

RESPONDENT'S EXHIBIT No. 4

[Letterhead of Masters and Masters]

Mr. Paul T. Bailey

February 10, 1954

Attorney at Law

Madison Building, Portland 4, Oregon

Re: Monroe Feed Store and American Federation of Grain Millers, No. 61, Case No. 36-CA-434.

Dear Mr. Bailey:

I received your letter of February 9, 1954, wherein you demand that Monroe Feed Store recognize the American Federation of Grain Millers, Local 61, as bargaining agent for certain employees of the Company. As expressed in my letter of December 7, 1953, the Company does not feel that this union represents a majority of its employees. For this reason, the Company does now request that you enter into a consent election agreement so that an election may be held immediately before the National Labor Relations Board to determine this question of representation.

In the event that this election proves that this union does represent a majority of the employees, the Company will be happy to enter into negotiations with a view of reaching a satisfactory collective bargaining agreement.

A charge has been filed by this union, claiming that the Company has discriminatorily discharged employees because of union activities, and a complaint has been issued based upon this charge, and a hearing has been set upon this complaint. The



company has not discharged any employees because of union activities, and has not refused to rehire any employees because of union activities. Employees have been rehired on a merit basis.

If you have objections to an election, I would appreciate being informed so that a petition for an election may be filed by the employer in order to determine the question concerning representation which is now present.

Yours very truly,

Masters & Masters,

/s/ By W. Masters

WJM:b

(Copy)

---

RESPONDENT'S EXHIBIT No. 5

[Letterhead of Masters and Masters]

Mr. Paul T. Bailey

February 15, 1954

Attorney at Law

1207 S. W. Third Avenue, Portland, Oregon

Re: Monroe Feed Store

Dear Mr. Bailey:

It is my understanding from your letter of February 11, 1954, that you do not wish to enter into a consent election and you do not wish to discuss an election in any manner.

It is also my understanding that you now take the position that all employees discharged were discharged because of union activities. This indicates that you no longer feel that you represent a majority of the present employees of Monroe Feed

Store, and therefore, do not wish to participate in an election.

Inasmuch as you do not represent a majority of the employees, the employer does not desire to enter into collective bargaining with the Local.

Yours very truly,

Masters & Masters,

/s/ By W. Masters

WJM:b

(Copy)

---

RESPONDENT'S EXHIBIT No. 6

[Letterhead of Masters and Masters]

Mr. Paul T. Bailey

February 18, 1954

Attorney at Law

1207 S. W. Third Avenue, Portland, Oregon

Re: Monroe Feed Store and American Federation of Grain Millers

Dear Mr. Bailey:

I have your last letter and I note that you claim that the Union represents a majority of the employees at Monroe Feed Store. However, I further note that you do not desire to test this majority by an election. Inasmuch as the management of Monroe Feed Store does not feel that the union represents a majority of their employees, the employer feels that it would be a violation of the Act to enter into any agreement with the Union requiring its employees to become members of the Union.

If and when this question of representation is determined and if the Union is the bargaining agent for a majority of the employees, the Monroe Feed

Store will be willing to enter into negotiations with a view of reaching a satisfactory collective bargaining agreement. In the meantime, I can assure you that the company is in no way discriminating against its employees because of union activities, nor is the Company interfering with, restraining or coercing its employees in the exercise of any of the rights guaranteed by the National Labor Relations Act, but, to the contrary, is attempting to refrain from any restraint or coercion in regard to the employees' rights to either join or refuse to join a labor organization.

Yours very truly,

Masters & Masters

/s/ By W. Masters

WJM:b

(Copy)

---

### CERTIFICATE

This is to certify that the attached proceedings before the National Labor Relations Board for the 19th Region in the matter of Monroe Feed Store and American Federation of Grain Millers, Local 61, AFL, Case No. 36-CA-434, March 9-10, 1954, Corvallis, Oregon, were had as therein appears, and that this is the original transcript thereof for the files of the Board.

ACME REPORTING COMPANY,  
Official Reporters

/s/ By M. J. MONTGOMERY,  
Field Reporter

